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SUBCOMMITTEE ON TRADE

OF THE

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

WRITTEN COMMENTS

ON

CERTAIN TARIFF AND TRADE BILLS

VOLUME V

JANUARY 3, 1989

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FOR IMMEDIATE RELEASE
WEDNESDAY, APRIL 27, 1988

SUBCOMMITTEE ON TRADE # 19
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
1102 LONGWORTH HOUSE OFFICE BLDG.
WASHINGTON, D.C. 20515
TELEPHONE: (202) 225-3625

THE HONORABLE SAM M. GIBBONS (D., FLA.), CHAIRMAN, SUBCOMMITTEE ON TRADE, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, ANNOUNCES REQUEST FOR WRITTEN COMMENTS ON CERTAIN TARIFF AND TRADE BILLS

The Honorable Sam M. Gibbons (D., Fla.), Chairman of the Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, today announced that the Subcommittee on Trade is requesting written comments for the record from all interested parties on the miscellaneous tariff and trade bills listed below.

A determination regarding further scheduling of public hearings or other Subcommittee action on any of these bills will not be made until after the close of this public comment period.

The tariff and trade bills on which written testimony will be received are:

Duty Suspension Bills

H.R. 3773 (Mrs. Patterson): To suspend temporarily the duty on MDBS and HPBA.

H.R. 3789 (Mr. Rose): To suspend until December 31, 1991, the duty on a herbicide intermediate.

H.R. 3946 (Mr. Moody and Mr. Aspin): To suspend temporarily the duty on piperonyl butoxide.

H.R. 3992 (Mr. Bustamante): To provide for a separate tariff classification for opal borosilicate glassware and to suspend temporarily the duty on glassware of that kind.

H.R. 4092 (Mr. Smith of New Jersey): To continue until January 1, 1990, a reduced rate of duty on ceramic statues, statuettes, and handmade flowers.

H.R. 4103 (Mr. Coble): To suspend for a 5-year period the duty on disperse yellow 27 dye.

H.R. 4240 (Mrs. Martin of Illinois): To suspend temporarily the duty on certain glass bulbs until January 1, 1993.

H.R. 4244 (Mr. Vander Jagt): To suspend for 3 years the duty on Bentazon.

H.R. 4266 (Mr. Stokes): To temporarily suspend the duty on mixed ortho/para toluene sulfonomide.

H.R. 4269 (Mr. Andrews, Mr. Pickle, and Mr. Archer): To suspend temporarily the duty on furniture of unspun fibrous vegetable materials.

H.R. 4294 (Mr. Buechner): To suspend until January 1, 1991, the duty on N-(2-hydroxyethyl)-2,4,6-triiodo-5-[2(2,4,6-triiodo-3-(N-methylacetamido)-5-(methylcarbamoyl) benzamido acetamido]-isophthalamic acid.

H.R. 4295 (Mr. Clinger): To suspend temporarily the duty on 3-ethyl-8-hydroxylquinoline.

H.R. 4296 (Mr. Clinger): To suspend temporarily the duty on naphthalic acid anhydride.

H.R. 4299 (Mr. Daub): To extend the duty arrangement on certain unwrought lead for a period of four years.

H.R. 4313 (Mr. McEwen): To amend the Appendix to the Tariff Schedules of the United States to supend the duties on certain bicycle parts.

H.R. 4316 (Mr. Nagle): To suspend until the close of December 31, 1990 the duty on sulfacholoropyridazine (technical).

H.R. 4337 (Mr. Frenzel): To temporarily suspend the duty on high resolution cathoderay tubes.

H.R. 4347 (Mr. Shaw, et al): For the relief of the State of Florida.

H.R. 4374 (Mr. Jenkins): To suspend for a 3-year period the duty on diphenolic acid.

Duty Reduction Bill

H.R. 4411 (Mr. Roe): To reduce the duty on certain fabrics for use in making fire-protective garments for firefighters.

Duty-Free Bill

H.R. 4167 (Mr. Green): To provide for permanent duty-free treatment on imports of certain tartaric chemicals.

Duty Increase Bills

H.R. 4303 (Mr. Goodling): Regarding the rates of duty on bone chinaware.

H.R. 4350 (Mr. Vander Jagt): To alter the tariff treatment of certain printed advertisements.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Persons submitting written comments should submit six (6) copies by the close of business Monday, May 23, 1988, to Robert J. Leonard, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Room 1102 Longworth House Office Building, Washington, D.C. 20515.

SEE FORMATTING REQUIREMENTS BELOW:

COMMITTEE ON WAYS AND MEANS FORMATTING REQUIREMENTS FOR PRINTING OF HEARING STATEMENTS, WRITTEN COMMENTS AND EXHIBITS

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be typed in single space on legal-size paper and may not exceed a total of 10 pages.
2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.
3. Statements must contain the name and capacity in which the witness will appear or, for written comments, the name and capacity of the person submitting the statement, as well as any clients or persons, or any organization for whom the witness appears or for whom the statement is submitted.
4. A supplemental sheet must accompany each statement listing the name, full address, a telephone number where the witness or the designated representative may be reached and a topical outline or summary of the comments and recommendations in the full statement. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press and public during the course of a public hearing, may be submitted in other forms.

* * * * * * * * * *

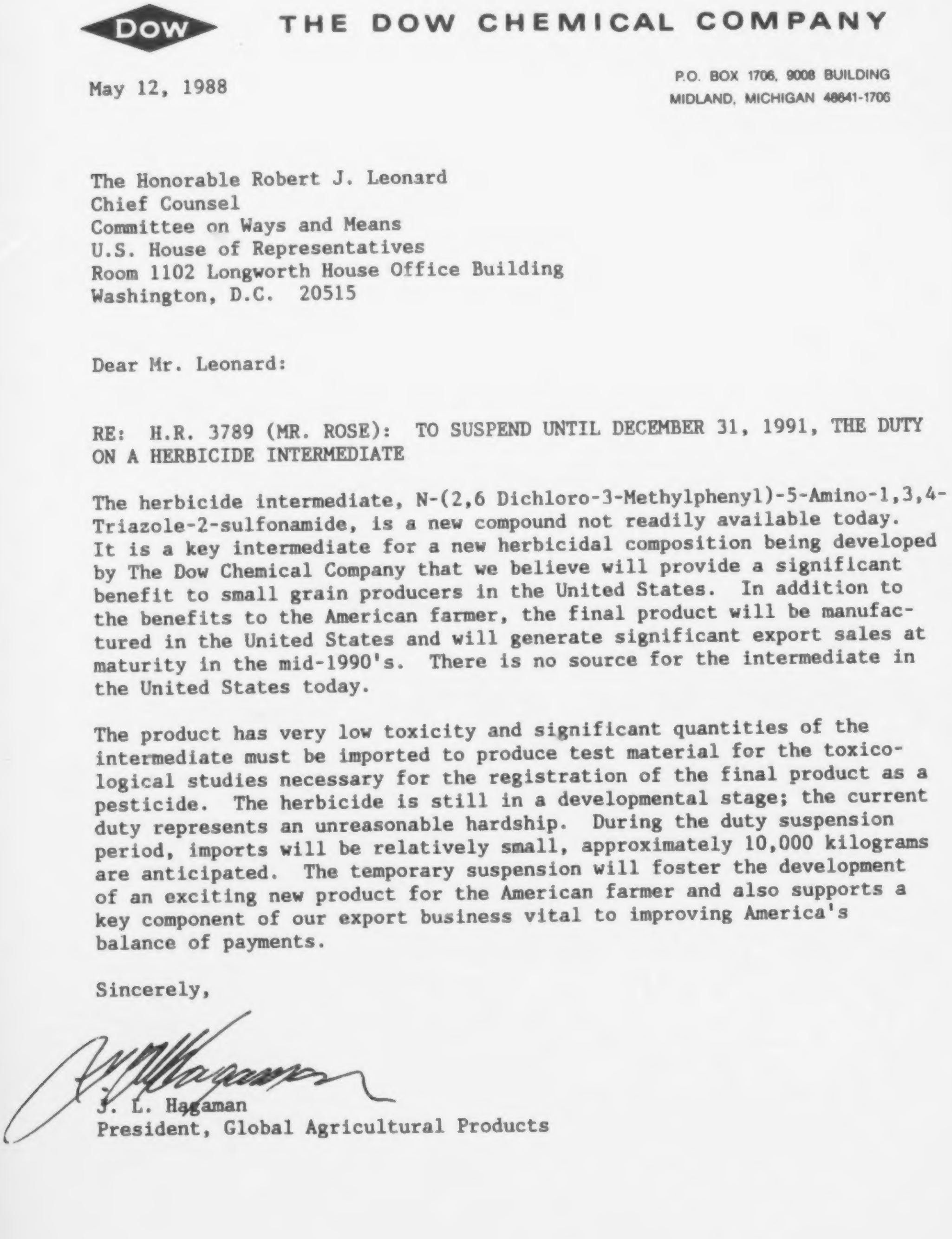
H.R. 3773

To suspend temporarily the duty on MDBS and HPBA

No statements submitted.

H.R. 3789

To suspend until December 31, 1991, the duty on a herbicide intermediate



DOW THE DOW CHEMICAL COMPANY

P.O. BOX 1706, 9008 BUILDING
MIDLAND, MICHIGAN 48641-1706

May 12, 1988

The Honorable Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
Room 1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Leonard:

RE: H.R. 3789 (MR. ROSE): TO SUSPEND UNTIL DECEMBER 31, 1991, THE DUTY ON A HERBICIDE INTERMEDIATE

The herbicide intermediate, N-(2,6 Dichloro-3-Methylphenyl)-5-Amino-1,3,4-Triazole-2-sulfonamide, is a new compound not readily available today. It is a key intermediate for a new herbicidal composition being developed by The Dow Chemical Company that we believe will provide a significant benefit to small grain producers in the United States. In addition to the benefits to the American farmer, the final product will be manufactured in the United States and will generate significant export sales at maturity in the mid-1990's. There is no source for the intermediate in the United States today.

The product has very low toxicity and significant quantities of the intermediate must be imported to produce test material for the toxicological studies necessary for the registration of the final product as a pesticide. The herbicide is still in a developmental stage; the current duty represents an unreasonable hardship. During the duty suspension period, imports will be relatively small, approximately 10,000 kilograms are anticipated. The temporary suspension will foster the development of an exciting new product for the American farmer and also supports a key component of our export business vital to improving America's balance of payments.

Sincerely,

J. L. Hagaman
President, Global Agricultural Products

H.R. 3946

To suspend temporarily the duty on piperonyl butoxide

WRITTEN STATEMENT OF ALPHA LABORATORIES INC.

CONCERNING H. R. 3946 -- A MISCELLANEOUS TARIFF BILL ON PIPERONYL BUTOXIDE

I. INTRODUCTION

H. R. 3946 is a bill to temporarily suspend the duty on Piperonyl Butoxide. We presume the premise being that there is a shortage of domestic material. The fact is that the domestic producers have capacity to produce twice the total domestic requirements, so clearly there is no need to import Piperonyl Butoxide to satisfy domestic requirements. Even with the present duty of 12.3% the imported material has been 5 to 10 percent cheaper than the United States material.

II. BACKGROUND

Alpha Laboratories Inc. and Hardwicke Chemical Co., a subsidiary of the Ethyl Corporation, are the major producers of Piperonyl Butoxide. We at Alpha Laboratories Inc. have never had to run our plant at full capacity, which is at least twice our current production. We understand that Hardwicke Chemical Company (Subsidiary of Ethyl Corporation) also has plenty of excess capacity.

Alpha Laboratories Inc. is a small family business whose only product is Piperonyl Butoxide. Even with our efficient methods for production, we are not competitive with the foreign producers.

III. DESCRIPTION AND USES FOR PIPERONYL BUTOXIDE

Piperonyl Butoxide is a synergist used mainly with pyrethrum insecticides, most often used for control of household insects.

Pyrethrums are natural insecticides derived from chrysanthemum flowers, and the insecticidal activity is enhanced with the addition of Piperonyl Butoxide. It is used in aerosols such as some of S. C. Johnson's "Raid".

IV. DESCRIPTION OF U. S. MARKET

We would estimate the present United Sates Market for Piperonyl Butoxide to be about 1,200,000 pounds. About 25 to 30 percent is imported mainly from Italy and Japan, and some from the United Kingdom.

Recently we have heard that one of the United States users, S. C. Johnson & Sons, Inc. has purchased the Brazilian company that manufacturers Piperonyl Butoxide. We also understand that Piperonyl Butoxide can be imported without duty from Brazil. S. C. Johnson & Sons, Inc. is a major user of Piperonyl Butoxide.

V. DESCRIPTION OF FOREIGN MARKETS

The United States producers of Piperonyl Butoxide cannot compete in the foreign market, even today with the weak dollar. There are duties on American material in both Japan and the European Community. We also are not competitive with the other world producers in Australia, or even in South America.

VI. U. S. IMPORT PENETRATION AND PRICING

The imported material has always been cheaper than the domestic Piperonyl Butoxide even with the 12.3% duty, and today with the weak dollar. Currently we estimate the foreign Piperonyl Butoxide accounts for about 25 to 30 percent of the material used in the United States.

If the duty were to be suspended, even temporarily, the market would be flooded with foreign material. Much of this market would be lost even after the duty were reinstated, as it is difficult to be competitive today with the 12.3% duty.

VII. SUMMARY OF REASONS FOR OPPOSITION

We are opposed to temporarily dropping the duty on Piperonyl Butoxide.

A. There is no need to further encourage the importation of Piperonyl Butoxide, as there is no shortage of American Piperonyl Butoxide.

B. The foreign producers have not had any problem competing with the United States producers even with the 12.3% duty, and currently approximately 25 to 30 percent of the Piperonyl Butoxide used in the United States is foreign produced.

C. One of the major users of imported Piperonyl Butoxide, has now purchased the Brazilian manufacturer of Piperonyl Butoxide. We understand there is no duty on the Brazilian material.

Temporarily suspending the duty on Piperonyl Butoxide would be disastrous to the domestic manufacturers. The foreign producers would capture an even bigger share of the United States market, a share that would be almost impossible to retrieve even after the duty were reinstated.

To a small family business like Alpha Laboratories Inc., this would be disastrous.

As we stated earlier in this statement, Piperonyl Butoxide is used mainly with Pyrethrums, which are derived from chrysanthemums. The supply of pyrethrums is often threatened due to adverse weather conditions in Africa where they are grown.

1988 has been a poor year for the Chrysanthemum growers. If we were threatened by both this shortage and increased foreign competition, we do not know what the outcome would be.

VIII. CONCLUSIONS AND RECOMMENDATION

We cannot see any reason why the duty on Piperonyl Butoxide should be temporarily suspended. There is no shortage of domestic material. The foreign manufactures are able to be competitive with the present duty.

There is a duty on United States material in the European Community as well as in Japan, so we cannot export any material. Twenty-five to thirty percent of the material used in the United States is foreign produced now.

The major importer of Piperonyl Butoxide will be able to import material from Brazil without duty.

If the duty were suspended, the foreign competition would be even greater and we would have a very difficult time to recapture the market after the duty were reinstated.

We recommend that H. R. 3946, the bill to temporarily suspend the duty on Piperonyl Butoxide, not be passed.

Sincerely yours,

Alpha Laboratories Inc.

By: Toby Titman

Toby Titman, President

May 18, 1988

Alpha Laboratories Inc.
P. O. Box 22223
Denver, Colorado 80222

Telephone: (303) 756-1338

enclosure: Please read letter form our customer stating that we are not competitive with his foreign supplier.

prentiss
Drug & Chemical Co., Inc.
C.B. 2000 Floral Park, N.Y. 11001
Street Address: 21 Vernon St., Floral Park, N.Y.
Cable Tisspren, New York Telex No.: 236854

Insecticides/Rodenticides
Chemicals
TEL. (516) 326-1919
FAX (516) 326-2312

January 28, 1988

Mrs. Toby Titman
ALPHA LABORATORIES, INC.
P. O. Box 22223
Denver, Colorado 80222

Dear Toby:

In our telephone conversation of January 6th regarding Piperonyl Butoxide, you gave me a price of $4.72 a pound, FOB Denver.

We would like to be able to buy from you and keep you as a supplier for a portion of our requirements. However, I think it is my duty to tell you that the price of $4.72 a pound is, at the moment, uncompetitive. I would not mind it if you were only a few cents a pound higher than our alternatives, but at $4.72 a pound I have to tell you that you are approximately 15¢ to 20¢ a pound above what we are able to do from another top-notch supplier.

I am leaving on vacation for about a month after next week, and if you can do anything to soften this discrepancy, which is significant, you should let me know about it sometime during the week of February 1st.

I am sure that you wish to review this with your associates, and, therefore, this is the best opportunity.

ery truly yours,

RENTISS DRUG & CHEMICAL CO., INC.

Malcolm

alcolm Miller
resident

[illegible]

JIM MOODY
WISCONSIN

COMMITTEE ON
WAYS AND MEANS

Congress of the United States
House of Representatives
Washington, DC 20515

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ROOM 618
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May 20, 1988

The Honorable Sam M. Gibbons
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Gibbons:

Thank you for considering H.R. 3946 for inclusion in an omnibus miscellaneous tariff bill. H.R. 3946 would temporarily suspend the duty on piperonyl butoxide (PBO), a plant extract used in insecticides.

For years, domestic demand for PBO has exceeded domestic supply. The U.S. market currently accounts for some 700 tons of PBO while domestic U.S. production is estimated to be 350 tons per year. The record clearly shows that domestic production alone has been inadequate.

We understand that your Subcommittee has received letters from several users of PBO who all explain that for years domestic producers have been unable to meet their demand for PBO. In their view, a suspension of the duty would allow users to meet the PBO shortfall by importing from foreign producers without unnecessary duty.

It is my understanding that domestic producers would not be harmed in any way by a suspension of the duty on PBO. It is expected that PBO users in the United States would continue to take the entire domestic production.

The U.S. insecticide industry currently pays a duty of 12.3% or 12.5% on imported PBO. The U.S. industry and American consumers would greatly benefit from a suspension of that duty.

Please do not hesitate to contact us if you have any questions about H.R. 3946. We hope the Subcommittee on Trade will favorably consider this important measure.

Sincerely,

Les Aspin
Les Aspin
Member of Congress

Jim Moody
Jim Moody
Member of Congress

WRITTEN STATEMENT OF ETHYL CORPORATION

CONCERNING H.R.3946--A MISCELLANEOUS TARIFF BILL ON PIPERONYL BUTOXIDE

I. INTRODUCTION

The one year temporary suspension of United States duty on imports of piperonyl butoxide proposed by H.R. 3946 will have an adverse economic impact on the domestic manufacturer's of piperonyl butoxide. Such an impact will primarily effect two companies.

Piperonyl butoxide is manufactured in the United States by two companies which then sell the piperonyl butoxide into the merchant market as a chemical intermediate for use in insecticides. Ethyl Corporation (Ethyl), through one of its subsidiaries, Hardwicke Chemical Company (Hardwicke), located in Elgin, South Carolina, is one of these two domestic manufacturers. The other domestic manufacturer is Alpha Laboratories Inc. (Alpha) located in Denver, Colorado.

Ethyl is opposed to the enactment of H.R. 3946. Alpha, Ethyl's sole U.S. competitive manufacturer of piperonyl butoxide, is filing a separate written statement also opposing the enactment of H.R. 3946. The enactment of H.R. 3946 is not in the economic interest of the U.S. manufacturers of piperonyl butoxide.

II. BACKGROUND

Hardwicke has been producing piperonly butoxide for about 20 years. Piperonyl butoxide is one of several chemical intermediates that Hardwicke produces for sale to companies that blend or further process piperonyl butoxide for insecticide type products. Piperonyl butoxide is an important product, in a line of chemical insecticide intermediates, that Hardwicke sells into domestic markets. There is little opportunity to compete in the export market because of the duty rates on imports of piperonyl butoxide in countries where foreign competitors are located that produce piperonyl butoxide.

The U.S. market for piperonyl butoxide is essentially the only outlet for domestically produced product. An important factor Ethyl considered when making prior investments in research, development and plant facilities for piperonyl butoxide was the fact that the current U.S. duty rate of 12.3 percent on piperonyl butoxide would remain in effect. Without any U.S. duty applicable to imports of piperonyl butoxide, the U.S. manufacturers will lose more market share to the imported product and be at a competitive disadvantage to the piperonyl butoxide manufacturers in other countries.

Hardwicke has ample production capacity to produce about twice the current domestic market requirement for piperonyl butoxide. Additionally, Alpha has significant excess production capacity. There is no shortage of domestically produced piperonyl butoxide and no reason to temporarily suspend the U.S. duty on imports of piperonyl butoxide. Hardwicke is a viable supplier of quality piperonyl butoxide and capable of producing and selling quantities well in excess of the total amount of piperonyl butoxide annually consumed in the United States.

III. DESCRIPTION AND USES FOR PIPERONYL BUTOXIDE

Piperonyl butoxide (6-Propyl piperonyl butyl diethylene glycol ether) is a synergist used in insecticide formulations. It has been used in such formulations for over twenty years. Essentially this is the sole use for this chemical intermediate. Piperonyl butoxide is used as a synergist for both natural and synthetic pyrethroids in household insecticides. There have been some attempts to use piperonyl butoxide as an synergist for synthetic pyrethroids that are used in field crop applications, but these attempts have, in general, had limited success.

Ethyl believes that piperonyl butoxide is properly classified in the Tariff Schedules of the United States Annotated (TSUSA) under Item Number 428.4780, and in the Harmonized System under Number 2909.30.3000. The current U.S. duty rate on imports classified under TSUSA 428.4780 is 12.3 percent. Under the Harmonized System classification (yet to be implemented by the United States) the proposed U.S. duty rate would be 13.1 percent for piperonyl butoxide.

IV. DESCRIPTION OF U.S. MARKET FOR PIPERONYL BUTOXIDE

The current domestic market for piperonyl butoxide is estimated at 1.25 million pounds per year with an approximate value in the range of $5.5-7 million depending upon frequent price changes. The two domestic producers of piperonyl butoxide are Ethyl, through its subsidiary Hardwicke, and Alpha, a family owned business that has piperonyl butoxide as its sole product. A third U.S. company, Redell Industries, Inc., may have the capability to produce piperonyl butoxide, but Ethyl is not aware of any significant commercial quantities that have been produced by this company. They may be importing piperonyl butoxide for resale. Although ample quantities of domestically produced piperonyl butoxide are available from the two major U.S. manufacturers, at least two U.S. consumers of piperonyl butoxide import foreign produced product.

The domestic consumers, formulators and distributors of piperonyl butoxide include Burlington Bio-Medical Corporation, Chemical Dynamics Corporation, McLaughlin Gormley King Co. (MGK), Fairfield American Corporation, Prentiss Drug and Chemical Co., Inc., Redell Industries, Inc. and S.C. Johnson and Son, Inc. Ethyl believes that S.C. Johnson and Fairfield are the major importers of piperonyl butoxide.

It is estimated that domestic price levels for piperonyl butoxide currently range from $4.50 to $6.00 per pound. Over the past five years, this price range has fluctuated by about 50 cents per pound primarily because of the fluctuations in the price of the key raw material used to make piperonyl butoxide. Although historically, import price levels have averaged 5-10 percent less than the domestic price level including the U.S. duty of 12.3 percent, current import prices are believed to be comparable to domestic price levels.

V. DESCRIPTION OF FOREIGN MARKETS FOR PIPERONYL BUTOXIDE

Countries in the European Economic Communities (EEC), Japan, Africa and India represent the other major world markets for piperonyl butoxide. The world market, excluding the United States, is estimated to be in the range of 2-2.5 million pounds per year.

Major producers of piperonyl butoxide, excluding those in the United States, include companies that are located in Japan, Italy, Great Britain and most recently in Brazil. Ethyl believes that the Japanese producer may be getting piperonyl butoxide as a by-product from making another chemical. If this is the case, the Japanese producer is likely to have a significant cost advantage over all other producers. Consumers of piperonyl butoxide are comprised of a number of companies around the world that purchase piperonyl butoxide from producers in Japan, Italy and Great Britain to make insecticide formulations.

Recently, it has been reported that S.C. Johnson and Son., Inc. (the largest U.S. consumer of piperonyl butoxide) purchased a company in Brazil named Pirisa. It is reported this company can or will produce piperonyl butoxide possibly for export to the United States. Should this occur, S.C. Johnson will have a captive source of piperonyl butoxide from a country with duty-free GSP eligibility. This development would have even a worse adverse impact on U.S. manufacturers of piperonyl butoxide and may be the reason that parties in favor of H.R. 3946 is proposing only a one year temporary suspension of U.S. duty on piperonyl butoxide. This one year of duty relief may be all that is needed before Brazilian production can supply S.C. Johnson with all their requirements on a GSP duty-free basis.

Another interesting factor causing Ethyl concern about this development is the fact that the one primary raw material (ocotea cymbaum) for making piperonyl butoxide is only available in Brazil and the Peoples Republic of Chica. The U.S. manufacturers of piperonyl butoxide must import ocotea cymbaum to produce piperonyl butoxide, so S.C. Johnson would have a further competitive advantage in having local access to ocotea cymbaum in Brazil. Currently, it is believed that S.C. Johnson is the largest consumer and importer of piperonyl butoxide in the United States, so this indeed is an important development that also has bearing on any consideration to temporarily suspend the U.S. duty on imports of piperonyl butoxide.

VI. U.S. IMPORT PENETRATION AND PRICING FOR PIPERONYL BUTOXIDE

Ethyl estimates that annual U.S. import quantities of piperonyl butoxide are in the range of 300-500 thousand pounds. This represents about 35 percent of the current U.S. market for piperonyl butoxide. This level of import penetration varies depending upon the dollar valuation, but has generally been relatively constant over the past 3-5 years despite the current U.S. duty rate of 12.3 percent applicable to imports. If U.S. duty did not apply, it is likely that import penetration would increase another 25-30 percent. To prevent this from happening, U.S. manufacturers would either have to sell at lower prices to maintain market share or exit the business.

Although specific U.S. import statistics are not available to the public for piperonyl butoxide, Ethyl estimates that imports are currently priced comparable to domestic pricing on a duty paid basis. Historically, imports have been priced 5-10 percent less than domestic prices, but recent changes in the U.S. dollar value has reduced that differential to near comparable. If the U.S. duty were to be suspended, import prices would decrease at least 12-13 percent, assuming the foreign supplier would give the U.S. importer the full benefit of not having to pay any U.S. duty. This, in effect, would negate any benefit U.S. manufacturers received from recent changes in the U.S. dollar value.

VII. SUMMARY OF REASONS FOR OPPOSITION

Ethyl is one of at least two U.S. companies that would be adversely effected by the enactment of H.R. 3946. The temporary suspension of U.S. duty on imports of piperonyl butoxide would facilitate further import penetration of the U.S. market and reduce the competitiveness of U.S. manufacturers with foreign manufacturers resulting in (1) less production, (2) possible reduction in employment at Ethyl's plant in Elgin, South Carolina, (3) lost sales, and (4) reduced profitability to Ethyl. This result would particularly have an adverse impact on the operations of our subsidiary, Hardwicke Chemical Company. There is no other use for piperonyl butoxide, so this clearly would be a loss to Ethyl and especially to a smaller company like our domestic competitor Alpha.

There is excess production capacity for piperonyl butoxide in the United States and no need to suspend U.S. duty on imports of piperonyl butoxide at the expense of U.S. manufacturers. The temporary suspension of U.S. duty would facilitate imports capturing a larger share of the U.S. market. Once such market share is lost to imports, U.S. manufacturers would have a difficult time in regaining that lost market share. Should S.C. Johnson become a producer of piperonyl butoxide in Brazil, and beneft on imports from Brazil being eligible for GSP duty-free treatment, U.S. manufacturers would likely lose most of the U.S. market for piperonyl butoxide to imports.

If most of the U.S. market is lost to imported piperonyl butoxide and export opportunities for U.S. manufacturer's of piperonyl butoxide are effectively beyond the reach of competitively priced product because of foreign duty rates, U.S. manufacturers of piperonyl butoxide would have little incentive to continue production. Consumers of piperonyl butoxide in the United States would then be totally dependent upon foreign sources of supply.

The current U.S. duty rate of 12.3 percent on imports of piperonyl butoxide has not discouraged import penetration that has grown to over 35 percent. The proposed suspension of U.S. duty will only facilitate further import penetration and damage the viability of U.S. piperonyl butoxide producers.

VIII. CONCLUSIONS AND RECOMMENDATION

Ethyl is not aware of any reason nor of any case that has been made to justify the temporary suspension of the U.S. duty on piperonyl butoxide. The information presented in this statement clearly indicates the adverse economic impact that would occur to the U.S. manufacturers of piperonyl butoxide if the U.S. duty rate applicable to imports of piperonyl butoxide were to be even temporarily suspended. Foreign suppliers do not need relief from paying U.S. duty on imports to be competitive in the U.S. market for piperonyl butoxide. This has already been clearly established by the current level of import penetration even with the current 12.3 percent duty rate applicable to these imports. The suspension of U.S. duty will translate to more lower priced imports at the expense of the U.S. manufacturers of piperonyl butoxide.

Ethyl urges the Subcommittee on Trade to reject H.R. 3946, and that the Congress should not enact any legislation that would temporarily (or otherwise) suspend the current U.S. duty on imports of piperonyl butoxide.

Respectfully submitted,

ETHYL CORPORATION

By:
Max Turnipseed
Manager
International Trade Affairs

May 23, 1988

Ethyl Corporation
1155-15th Street, N.W., Suite 611
Washington, D.C. 20005
Telephone: (202) 223-4411

Keane and Associates
International Marketing

7 East Chestnut, Chicago, IL 60611
(312) 664-4781
(312) 935-4999 (Home)
FAX (312) 664-0728

May 12, 1988

Mr. Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
Room 1102 Longworth House Office Building
Washington DC 20515

Dear Mr. Leonard:

Re: HR 3946
Suspension of Duty on Piperonyl Butoxide (PBO)

Our attention has been drawn to the request for written comments on the above proposed legislation. We support this Bill, and we would like to provide background information for the Committee's consideration.

Background:

Piperonyl Butoxide, (PBO) is a refined plant extract derived primarily from sassafrass and menthol. The oil is extracted primarily in Brazil, and there is no domestic US production of the oil. The finished product, PBO, is manufactured in Europe, Japan and the United States.

Uses:

The principal use of PBO is as an insecticide synergist. It enhances the efficacy of natural pyrethrin insecticides, and is also increasingly used to combat the development of insect resistance to insecticides.

PBO, as an insecticide synergist, is used in millions of consumer insecticide products in the US, including aerosols, roach, flea and tick products, pet and veterinary formulations and pediculicides. There is no equivalent or effective alternative for this product for most of its uses.

Significance of PBO

The use of PBO with natural pyrethrum results in cost effective formulations which have enabled pyrethrum to remain competitive. Pyrethrum, another natural product, is widely recognized as the safest and most ecologically sound insecticide currently available.

Pyrethrum is the primary cash crop for hundreds of thousands of small farmers in Kenya, Rwanda and Tanzania in East Africa, and the crop is the third most important industry in Kenya. There is no domestic production of pyrethrum in the United States, and the US is the largest single market for this product.

The market for Pyrethrum is totally dependent upon PBO. Without PBO the livelihood of farmers who represent a significant proportion of the agricultural output of these countries would be seriously endangered.

PBO, therefore, has a strategic importance which is not readily apparent from production or import figures. It is the primary support for a major agricultural industry in developing nations, and it allows the American consumer to choose a cost effective, environmentally acceptable insecticide.

US Market for PBO

The US market currently accounts for about 600 tons of PBO, about 38% of the total global demand, with an estimated value of approximately $8.4 million.

US Domestic Production of PBO

The domestic production of PBO is estimated to be 350 tons. This is produced by Alpha Laboratories in Denver, Colorado, and by Hardwicke Chemical Company, in Elgin, South Carolina.

Allowing for exports, the domestic production accounts for about half of the US demand, and the balance is imported, primarily from Europe and Japan. The domestic production has remained static for the past several years, and capacity has not been increased in recent years, even though the domestic demand has increased significantly.

It is estimated that the Alpha plant provides employment for 2 full-time people, and the Hardwicke plant for a further 4 people, for a total of 6 full-time people. It is not considered likely that a duty suspension would in any way effect the employment of these individuals.

Major Users of PBO

There are five major users of PBO in the United States. In order of importance these are:

S.C. Johnson, (SCJ) Racine, WI
Fairfield American Corporation, (FAC) Rutherford, NJ
Prentiss Drug & Chemicals, Floral Park, NY
MGK Company, Minneapolis, MN
Roussel Bio Corporation, Engelwood Cliffs, NJ
(Formerly Penick Bio-Uclaf)

Only one of these companies, MGK, does not import PBO, and that is because they have a captive domestic source in Hardwicke Chemical Company.

It is important to realize that the existing domestic production is not available to all the major US users. The Hardwicke production is captive to MGK, and the company does not offer its production to any other customers. Similarly the Alpha production is not directly available to all other users.

We believe, therefore, that the existing production is not offered on the open market and is not available to all users.

Comments on Position Taken by Domestic Producers

The position taken by the two domestic producers, Hardwicke and Alpha, does not comport with our experience in the industry.

Both companies claim to have excess capacity, but neither company has increased production in recent years to supply the domestic demand.

More importantly there is clear evidence that the existing domestic production, regardless of stated capacity, is both inadequate to supply existing demand, and is not available to all the major US users. Of the five major users of PBO in the United States, four - Johnson Wax, Prentiss Drug & Chemical, Roussel Bio (formerly Penick Bio-Uclaf), and FAC state categorically that they have not been solicited by Hardwicke to purchase material in the past three years.

Three of these companies, Prentiss, FAC and Roussel Bio further state that they believe that the Hardwicke production is not available to them, and both Johnson and Prentiss have provided evidence that their requests for quotations have been turned down.

We firmly believe that the Hardwicke production is available only to MGK and is not offered to other users. The attached documentation from the major users - Johnson Wax, Prentiss Drug, Roussel Bio and FAC supports this position.

Alpha has not expanded its production in recent years and its location in an urban area appears to preclude significant expansion without relocation. Alpha's entire production is divided between two companies, Prentiss and FAC, both of whom have indicated their full support for the proposed legislation. Alpha has not offered its material directly to any other US customers in the past three years.

Sassafrass oil, the primary raw material for PBO, is imported primarily from Brazil and there is no domestic production. It is currently in limited supply and, historically, no single producer of PBO has been able to secure adequate supplies to meet the entire US domestic market. We seriously doubt, therefore, that either Hardwicke or Alpha would ever be in a position to meet the entire US demand, even if this were its intention.

Hardwicke claims that it has not been successful in exporting any significant quantity of PBO due to import duties in most foreign countries, and that the domestic market is the only market where it can sell PBO competitively. Whereas, Hardwicke itself may not have exported PBO, its agent, MGK, has consistently and successfully exported nearly one third of the total Hardwicke production for a number of years. It appears that Hardwicke prefers to export rather than offer this material to other users in the domestic market. To the best of our knowledge, Alpha does not have excess production available to offer material for export.

Neither of the domestic producers has its own registration for technical PBO. The Hardwicke registration is held by its agent, MGK, and the Alpha registration is held by FAC. This means that neither company can freely offer its material to companies which do not have their own PBO registrations.

Similarly neither Alpha nor Hardwicke has opted to take a full share in the costs of developing additional data for PBO required by EPA's ongoing Data Call-In Program, and the burden for the cost of developing these data has largely fallen on the domestic users of PBO, and some of the overseas suppliers. It is difficult to reconcile this position with the stated importance of PBO to the two domestic producers, and we are forced to regard this as a lack of commitment on their part.

With regard to Hardwicke's views on duties in foreign countries, it should be noted that the majority of overseas markets for PBO impose duties of less than half that of the United States. In Europe, for example, the existing duty is 6.3% and it is being reduced by 1% a year to a zero level in accordance with GATT treaty obligations. Hardwicke's other overseas markets for PBO do not carry any punitive tariffs.

As you will see from the enclosed documents, four out of the five major US users of PBO fully support the proposed legislation. The only other major user, MGK, receives all its requirements from Hardwicke, and does not purchase from other sources.

We believe that the domestic production is captive in the sense that it is not sold or offered on the open market, but is delivered under contract to only a few of the major users. We have provided evidence that Hardwicke and Alpha are unwilling or unable to meet outside requests for their material and we believe that the proposed legislation will benefit the domestic insecticide industry and the American consumer.

Furthermore we believe that there would be a negligible effect on domestic production of PBO from a duty suspension, since the major part of the existing production is essentially captive to MGK, and Alpha's smaller production will continue to be taken by FAC and Prentiss.

We strongly support this Bill which we believe to be in the best interests of the insecticide industry and the American consumer.

We would be pleased to provide further information on request.

Sincerely,

KEANE & ASSOCIATES

Paul

Paul A. Keane
President

ATTACHMENT 1

S. C. Johnson & Son, Inc.
Racine, WI 53403-5011
Phone: (414) 631-2000

FAX: 312/664-0728

Johnson wax

May 12, 1988

Mr. Paul A. Keane
KEANE AND ASSOCIATES
International Marketing
7 East Chestnut
Chicago, Illinois 60611

Dear Paul:

This letter is in response to your recent request for further information on our usage of PBO, and provides our reaction to the claim that the U.S. producers of PBO can service this market without imports.

1. S. C. Johnson is, perhaps the biggest user of PBO in the world, certainly the biggest user in the consumer household market. We do not feel that our supply requirements of PBO can be met by Hardwicke and/or Alpha.

2. Neither Hardwicke or Alpha, individually or collectively, could reliably supply the entire U.S. market, since the supply of safrole--the key ingredient in piperonyl butoxide--is in relatively short supply. It is doubtful that they could consistently acquire sufficient supplies of safrole to satisfy the entire U.S. market. This assumes, of course, that they have the production capability to produce the total U.S. requirements, which is something that they have never demonstrated.

3. Neither Alpha or Hardwicke has called on us in the last three years to sell us piperonyl butoxide. Alpha called our buyer on the phone recently, gave us some information about pricing, but then reaffirmed that we would have to purchase material through Fairfield American. Attached is a letter from Hardwicke's agent, MGK, refusing to bid on Johnson's requirements for 1988.

4. Neither Alpha or Hardwicke has a registration to sell piperonyl butoxide. They must sell to or through someone who has a registration. Consequently, they are restricted "de facto" to whom they can sell.

5. S. C. Johnson has a policy to purchase from manufacturers as opposed to distributors whenever it is possible and practical to do so. This is done because we want the manufacturer's direct assurance of supply, quality and cost. Also, manufacturers are more willing to share new technologies with direct customers. In addition, it simplifies any potential claims for product liability.

Sincerely,

S. C. JOHNSON & SON, INC.

R. G. McCurdy
Senior Vice President -
Safety, Health Environment and
Chief Manufacturing Officer

ATTACHMENT 1 continued

McLAUGHLIN GORMLEY KING COMPANY
8810 TENTH AVENUE N. • MINNEAPOLIS, MINNESOTA 55427, U.S.A.
TELEPHONE (612)544-0341 • TELEX: 290 544 MACK GOVY • CABLE "MACK" MINNEAPOLIS
MGK®
MANUFACTURING CHEMISTS
Incorporated 1908

15 October 1987

Mr. Patrick R. Hubbard
Senior Buyer
S. C. JOHNSON & Son, Inc.
Racine, Wisconsin 53403-5011

Dear Pat,

This letter will confirm our decision not to quote on your requirements of piperonyl butoxide, technical.

We would appreciate being kept on your approved supplier list for future requirements.

Best personal regards,

McLAUGHLIN GORMLEY KING COMPANY

Trevor D. Lloyd
Director of Sales

ATTACHMENT 2

prentiss
Drug & Chemical Co., Inc.
C.B. 2000 Floral Park, N.Y. 11001
Street Address: 21 Vernon St., Floral Park, N.Y.
Cable Tisspren, New York Telex No.: 236854

Insecticides/Rodenticides
Chemicals
TEL. (516) 326-1919
FAX (516) 326-2312

May 6, 1988

Mr. Paul Keane
KEANE & ASSOCIATES
7 East Chestnut Street
Chicago, Illinois 60611

HR 3946
S.2290

Re: Duty Suspension on Piperonyl Butoxide (PBO)

Dear Mr. Keane:

With reference to your recent request for further information on our usage of PBO, we are one of the five major users of PBO in the United States, and our consumption is growing. There are only two domestic producers of PBO in the United States: Hardwicke and Alpha.

We have never been solicited by Hardwicke, nor contacted by them, to purchase their material at any time during the last three years, and they have rejected our requests for quotations. In fact, we have, in previous years, asked them to quote on our requirements, and more than once we have been rejected. In fact, we have been rejected so many times that we have given up trying to buy from them, and we, therefore, believe that this material is not available to us. We currently purchase our requirements from Alpha, and supplement this occasionally with imported material, when necessary. We support the suspension of duty on PBO, and we feel that any such suspension of duty will be of benefit to the entire pesticide industry in this country.

If we may be of any further assistance in this matter, please do not hesitate to call on us.

Very truly yours,

PRENTISS DRUG & CHEMICAL CO.,INC.

M. Miller

Malcolm Miller
President

Plant and Laboratory Kaolin Road, Sandersville, Ga. 31082

ATTACHMENT 3

ROUSSEL BIO
CORPORATION

May 5, 1988

Mr. Paul Keane
KEANE & ASSOCIATES
7 East Chestnut Street
Chicago, IL 60611

Subject: HR 3946
S.2290
Duty Suspension on Piperonyl Butoxide (PBO)

Dear Mr. Keane:

This letter is in response to your recent request for further information on our usage of PBO.

We are one of the five major users of PBO in the United States, and our consumption is growing. There are only two domestic producers of PBO in the United States: Hardwicke and Alpha.

In recent years, we have been unable to secure supplies of PBO directly from either Hardwicke or Alpha. We have not been actively solicited by either company in the last three years and their production appears to be unavailable to us. We, therefore, currently import our requirements of this product.

We support the suspension of duty on PBO which we feel will be of benefit to the entire insecticide industry in this country.

If I can be of further assistance please do not hesitate to contact me.

Sincerely,

Brice P. Vandal
Marketing Director

PO BOX 1077 400 SYLVAN AVENUE ENGLEWOOD CLIFFS NEW JERSEY 07632 TELEPHONE (201) 871-0771 TELEX ITT 420839

ATTACHMENT 4

Fairfield American Corporation
201 Route 17 North
Rutherford NJ 07070
201 507 4880
TLX 497 9485 FAC WITL
FAX 201 507 4899

May 10, 1988

Mr. Paul Keane
Keane & Associates
7 East Chestnut Street
Chicago, Illinois 60611

Dear Mr. Keane:

HR 3946
S.2290
Duty Suspension on Piperonyl Butoxide (PBO)

This letter is in response to your recent request for further information on our usage of PBO.

We are major users of PBO in the United States, and our consumption is growing. There are only two domestic producers of PBO in the United States: Hardwicke and Alpha.

We have not been solicited by Hardwicke to purchase their material at any time during the last three years, and we believe that this material is not available to us since as a major user they should have approached us.

We currently purchase our requirements from Alpha and supplement this with imported material. We support the suspension of duty on PBO which we feel will be of benefit to the entire insecticide industry in this country.

If I can be of further assistance please do not hesitate to contact me.

Yours sincerely,

Timothy F. Driscoll
President

prentiss
Drug & Chemical Co., Inc.
C.B. 2000 Floral Park, N.Y. 11001
Street Address: 21 Vernon St., Floral Park, N.Y.
Cable Tisspren, New York Telex No.: 236854

Insecticides/Rodenticides
Chemicals
TEL. (516) 326-1919
FAX (516) 326-2312

May 12, 1988

Mr. Robert J. Leonard, Chief Counsel
Committee on Ways and Means
U.S. HOUSE OF REPRESENTATIVES
Room 1102
Longworth House Office Building
Washington, D.C. 20515

HR 3946
S.2290
Re: Duty Suspension on Piperonyl Butoxide (PBO)

Dear Mr. Leonard:

We are a small corporation, domiciled in New York with formulating facilities located in Sandersville, Georgia.

We have been involved with the use and formulation of Piperonyl Butoxide since the discovery of the product in the 1940's and ever since. The product, Piperonyl Butoxide, hereinafter referred to as "PBO" is an important product to our company, and to our customers. Recently some new proposed uses for the product has led to projections of greatly increased usage in the next few years and beyond, and has caused a regeneration of interest in the product.

In the early years, when the product was protected by U.S.Patent, it was manufactured in this country by only one company, but ever since the expiration of the patent, it has been manufactured by others, both in the U.S.A. and abroad.

To my knowledge, the product is currently manufactured in this country (from imported raw materials for the most part), by only two manufacturers.

The larger, and more important worldwide manufacturers, are located abroad, and we wish to have free access to the domestic supplies, as well as the imported supplies, without penalty of customs duty, and at the same time, we do not wish to handicap the two U.S. producers.

However, one of the U.S.A. producers has an agreement to supply a competitor of ours exclusively, as they have never been in touch with us. Regarding the other producer, we do try to purchase approximately half of our requirements from them, but we need at least one other source of supply to keep them competitive.

We, therefore, support the above named legislation to suspend the duty on Piperonyl Butoxide.

Very truly yours,
PRENTISS DRUG & CHEMICAL CO., INC.

Malcolm Miller
President

Plant and Laboratory Kaolin Road, Sandersville, Ga. 31082

[BY PERMISSION OF THE CHAIRMAN.]

Pyrethrum Board of Kenya
Box 420 Nakuru Kenya Tel 40311/6 Telex 33080 Cables Pyboard

May 9, 1988

Mr. Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
Room 1102 Longworth House office Building
Washington DC 20515

Dear Mr. Leonard:

HR 3946: Duty Suspension on Piperonyl Butoxide

Our attention has been drawn to the proposed legislation to temporarily supend the duty on Piperonyl Butoxide (PBO), and we would like to comment on this matter.

We, the Pyrethrum Board of Kenya, are the world's largest producer of a natural insecticide - pyrethrum. Pyrethrum is derived from the flowers of a chrysanthemum like flower, and it is widely recognized as one of the safest and most environmentally acceptable insecticides available.

Pyrethrum is also a primary cash crop for hundreds of thousands of small farmers in Kenya, Tanzania and Rwanda in East Africa, and the crop is the third most important industry in Kenya.

Pyrethrum's value and efficacy have long been recognized in the United States, and until recently it was included on the US list of strategically important raw materials. The US is the major market for pyrethrum.

The market for pyrethrum is totally dependent upon PBO. PBO, as an insecticide synergist, enhances the efficacy of natural pyrethrin insecticides, and is also commonly used to combat the development of insect resistance to insecticides. The use of PBO with natural pyrethrum results in cost effective formulations which have enabled pyrethrum to remain competitive.

Pyrethrum Board of Kenya
Box 420 Nakuru Kenya Tel 40311/6 Telex 33080 Cables Pyboard

PBO is used, with pyrethrins, in thousands of consumer products in the United States, including aerosols, flea and tick products, pediculicides and pet and veterinary formulations. There is no equivalent or effective alternative for this product for most of its uses.

PBO, therefore, has an importance which is not readily apparent from production figures. It is the primary support for a major agricultural industry in a number of developing nations, and it allows the American consumer to choose an economic and environmentally acceptable insecticide.

Tariffs and duties are a critical factor in the continued viability of this natural insecticide industry, and on behalf of Kenya's thousands of pyrethrum growers, we wish to add our support to the proposal to eliminate the duty on imports of PBO into the United States.

We appreciate your consideration of our submission, and we would be pleased to provide any further information that the Committee on Ways and Means may require.

Sincerely,

The Pyrethrum Board of Kenya
J.M.G. Wainaina
Chief Executive Officer

ROUSSEL BIO
CORPORATION

May 11, 1988

Committee on Ways and Means
U.S. House of Representatives
Room 1102
Longworth House Office Building
Washington, D.C. 20215

Attention: Robert J. Leonard, Esq.
Chief Counsel

Re: HR 3946

Gentlemen and Ladies:

Roussel Bio Corporation (formerly Penick Bio UCLAF) is a leading manufacturer of concentrates and formulations for use in insecticide products. We are a major user of Piperonyl Butoxide (PBO), an important raw material in our insecticide manufacturing.

There are only two domestic producers of PBO in the United States and, since their production is apparently unavailable to us, we currently import our entire requirements of this raw material. Roussel Bio Corporation supports the proposed legislation temporarily suspending the duty on PBO, a measure we feel will be of benefit to the entire insecticide industry in this country.

Respectfully submitted,

Brice Vandal, Ph.D.
Marketing Director

P.O BOX 1077, 400 SYLVAN AVENUE. ENGLEWOOD CLIFFS, NEW JERSEY 07632 TELEPHONE: (201) 871-0771 TELEX: ITT 420839

H.R. 3992

To provide for a separate tariff classification for opal borosilicate glassware and to suspend temporarily the duty on glassware of that kind

STATEMENT BY CORNING GLASS WORKS
IN OPPOSITION TO H.R.3992

Submitted to the Subcommittee on Trade,
Committee on Ways and Means, U.S. House of Representatives

May 23, 1988

H.R.3992 was introduced on February 24, 1988 to provide duty-free treatment through December 31, 1992 for imports of opal borosilicate glassware chiefly used for preparing, serving, or storing food or beverages. Pursuant to the Press Release #19, released on April 27 by the Subcommittee on Trade, Corning Glass Works hereby registers its opposition to H.R.3992. The reasons for our opposition to this bill may be summarized as follows:

1. The enactment of H.R.3992 would directly benefit foreign manufacturers of opal borosilicate glassware to the direct detriment of American firms and workers, especially Corning Glass Works.

2. H.R.3992 circumvents the prohibition under the Generalized System of Preferences ("GSP") to the granting of duty-free treatment on import sensitive manufactured glass products.

3. The enactment of H.R.3992 would constitute a unilateral trade concession to Mexico and France.

U.S. firms and workers would be adversely affected by H.R.3992

There is little doubt that enactment of H.R.3992 would directly benefit foreign producers of opal borosilicate glassware to the direct detriment of American firms and workers, especially Corning Glass Works. Enactment of this bill will enable foreign producers to avoid duties ranging from 7.2 percent to 38 percent that are currently assessed on their shipments to the United States. This will give foreign manufacturers a substantial cost advantage that they currently do not have, thus enabling them to make greater inroads into the U.S. market. This will have a significant negative impact on U.S. glassware manufacturers and their workers.

Corning Glass Works would be especially adversely affected by this duty suspension. We are the nation's largest manufacturer of borosilicate glassware chiefly used for preparing, serving, or storing food. The brand names of Corning Ware®, Corelle®, Crown Corning®, and Pyrex® are well known and trusted by American consumers. The products that could enter duty-free, if H.R.3992 becomes law, could compete directly with Corning's brand name products. In essence, this duty suspension would put Corning's entire product line under increased levels of pressure from imports.

H.R.3992 would be particularly damaging to the U.S. glassware industry because it has already been identified by Congress as import sensitive. Under the direction of Congress, manufactured glass products have been statutorily prohibited from duty-free treatment under GSP because of import sensitivity. The enactment of H.R.3992 would conflict directly with this statutory prohibition on duty-free treatment.

H.R.3992 circumvents the prohibition on duty-free treatment under GSP

When the Congress first enacted the GSP program in 1974, it excluded certain import sensitive articles from the program. Semi-manufactured and manufactured glass products were, and continue to be, included among these import sensitive articles that are ineligible for GSP (See 19 U.S.C. 2463 (c)(1)(F).

The products covered by H.R.3992 have never been designated as eligible for duty-free treatment under GSP. Although the GSP Committee does not reveal the rationale for its recommendations to the President, we believe that the statutory prohibition is the reason why these products have never been designated as eligible for duty-free treatment under GSP. Consequently, any effort by the Congress now to enact H.R.3992 would directly conflict with its earlier decision not to grant duty-free treatment under GSP for these glassware products.

We also understand that the supporters of H.R.3992 intend to import opal borosilicate glassware duty-free primarily from Mexico. But for the GSP prohibition on import sensitive manufactured glassware, the supporters of H.R.3992 would be better advised to pursue a GSP petition. The fact that they have not, suggests clearly that they are attempting to circumvent the exclusion in GSP by pursuing a separate duty suspension bill.

Mexico and France get a free ride

H.R.3992, if enacted, would give a unilateral tariff concession to Mexico, France, and a number of other European countries. Since opal borosilicate glassware does not currently enter under a separate tariff classification, it is impossible to know precisely which countries are the primary suppliers. Currently, the articles covered by H.R.3992 are entered under TSUS 546.38 and TSUS 546.52 through 546.68. The principle suppliers of products in these categories include Mexico, France, and a number of other European countries. It is reasonable to assume that these countries would also be the beneficiaries of duty-free treatment under H.R.3992. A unilateral tariff concession to these countries simply makes no trade policy sense whatsoever, particularly as the United States is entering into negotiations with these countries in the Uruguay Round to cut tariffs on a reciprocal basis.

Conclusion

For the foregoing reasons, Corning Glass Works respectfully requests that the Committee cease consideration of H.R.3992.

Respectfully submitted,

Edward T Fogarty

Edward T. Forgarty
Senior Vice President and
General Manager
Consumer Products Division
Corning Glass Works

WRITTEN COMMENTS OF CREATIVE SPECIALTIES MANUFACTURERS IN SUPPORT OF H.R. 3992

These comments are submitted on behalf of Creative Specialities Manufacturers, of Highland Park, Illinois, an importer of opal borosilicate ovenware from Mexico, in support of H.R. 3992, which seeks to establish a separate tariff provision for opal borosilicate ovenware and dinnerware, and to temporarily suspend the duty on such imports.

Creative Specialties has been in the business of selling opal borosilicate ovenware since 1960. This is the only product sold by Creative Specialties. Creative Specialties, from the time it entered this business in 1960, sourced this product exclusively from U.S. manufacturers. At the time it began doing business, Federal Glass, Jeannette Sheet Glass, and Anchor Hocking all produced opal borosilicate glassware, and Creative Specialties purchased the product it sold from these companies. However, Federal Glass ceased its production of opal borosilicate glassware in 1979, and Jeannette Sheet Glass did likewise in 1981. Anchor Hocking, the remaining domestic manufacturer, advised us in 1986 that it would be ceasing production of opal borosilicate glassware in 1987. This forced Creative Specialties to look for foreign sources of opal borosilicate ovenware. Without such a foreign source, and with no existing domestic sources, Creative Specialties would have had to cease business.

Creative Specialties was able to find a producer of opal borosilicate ovenware in Mexico to supply its needs, and has been selling the imported product since that time. We began to source abroad only because there were no domestic sources of supply available.

The opal borosilicate ovenware sold by Creative Specialties is not sold through wholesale or retail outlets. Instead, it is sold through direct sales, that is, either by door-to-door or other similar methods by which the product is sold directly by Creative Specialties to the consumer. The opal borosilicate glassware we sell is not sold through any retail outlet. Creative Specialties sells a set of its opal borosilicate ovenware for approximately $12.85 (wholesale). Similar products of "pyrex" would sell for between $18-$20 per set, and a similar set of ovenware from Corning would sell for between $42-$50 per set. There are no products which compete directly with the opal borosilicate ovenware sold by Creative Specialties, and those products which have similar uses sell at prices significantly higher than the Mexican opal borosilicate products sold by us, and are sold through different channels of distribution (*i.e.*, through retail outlets).

Creative Specialties strongly urges the Trade Subcommittee to act favorably upon H.R. 3992. The 30 percent duty currently imposed on this product does not protect any domestic industry, inasmuch as there are no more domestic industries producing this product. The current 30 percent *ad valorem* duty on this product merely serves to increase the cost of the product to U.S. consumers. As such, we believe H.R. 3992 serves the best interest of the consuming public, and we respectfully urge that the Subcommittee act favorably upon the bill.

Respectfully submitted,

Richard Cohn

Creative Specialties
Manufacturers

STATEMENT OF CRISA CORPORATION IN SUPPORT OF H.R. 3992

This statement is submitted on behalf of Crisa Corporation, of Laredo, Texas, in response to the April 27, 1988 press release soliciting public comment on certain tariff and trade bills. Specifically, Crisa Corporation wishes to express its support for H.R. 3992, which seeks to establish a separate tariff provision for opal borosilicate glassware and to suspend temporarily the duty on such glassware. Crisa Corporation is an importer of such merchandise from Mexico. H.R. 3992 seeks to provide for a separate tariff classification for opal borosilicate glassware, chiefly used in the preparation, serving or storing of food or beverages, or food or beverage ingredients, which is currently classified under a "basket" tariff provision for "other" glassware, and to temporarily suspend the duty on opal borosilicate glassware imported under this newly created tariff provision.

There are two types of borosilicate glass -- opal borosilicate and clear borosilicate. Both opal and clear borosilicate glass are produced from the same raw materials, except that opal borosilicate glass has an extra ingredient -- phosphates -- which gives it its milky white coloring. H.R. 3992 deals only with opal borosilicate glassware and only that glassware used in the preparation, serving or storage of food or beverages, or food or beverage ingredients, i.e., ovenware and kitchenware.

Ovenware and kitchenware are produced from opal borosilicate glass, as opposed to clear borosilicate glass, mainly in response to consumer preference. This is in large part due to the fact that decorations are more readily applied to opal borosilicate glassware than to clear borosilicate glass. Indeed, clear borosilicate glassware, as well as most tempered glassware (which is also clear), is used mostly for industrial applications, where the need for decoration is minimal.

Borosilicate glass, whether clear or opal, because of its low coefficient of expansion, has the ability to withstand thermal shock significantly greater than tempered glass. It is also much less brittle than tempered glass, and not as prone to crack. This is so in large part because tempered glass is "tempered" subsequent to production, and the tempering process may not always be done evenly, causing weak points in tempered articles. In contrast to this, borosilicate glass derives its strength from the nature of the glass itself, not from any post-manufacturing operations. As such, it does not have any of the "weak" points which may exist in tempered glass products.

Borosilicate glassware (both opal and clear) imported into the United States for use in the kitchen is currently classified under a "basket" tariff provision, TSUS item 546.60, which covers "other" glassware chiefly used for preparing, serving or storing food or beverages, or food or beverage ingredients. Merchandise is dutiable under this tariff provision at the extremely high rate of 30.0 percent ad valorem, a rate significantly above the average U.S. ad valorem duty rate. H.R. 3992 would create a separate tariff provision for opal borosilicate glass used in the kitchen or household (TSUS item 546.37), and establish a duty rate for this product at 12.5 percent ad valorem. This is the same duty treatment currently accorded to tempered glassware used for the same purposes, and in fact proposed TSUS item 546.37 in H.R. 3992 is identical to the existing tariff provision for tempered glassware (item 546.38), merely substituting opal borosilicate glassware for toughened (specially tempered) glassware.

H.R. 3992 seeks to establish a separate tariff provision *only for* opal borosilicate glassware. This is in recognitition of the fact that while there are domestic manufacturers of clear borosilicate glassware in the United States, opal borosilicate glass and glassware is no longer produced in the United States. Anchor Hocking was the last U.S. manufacturer of opal borosilicate glass and glass products, but closed its operations in late 1987. It should be emphasized that domestic manufacturers of opal borosilicate glassware did not exit the U.S. market because of import competition. In fact, the reverse is true. Imports started to enter the United States as a result of the void in the market left by the cessation of U.S. production.

Given the fact that opal borosilicate glass is no longer produced in the United States, the 30.0 percent *ad valorem* duty imposed on opal borosilicate glassware imported into the United States has no effect other than to add 30.0 percent to the cost of such product to the U.S. consumer. For this same reason, even a 12.5 percent *ad valorem* duty serves no purpose, and this is why Section 2 of H.R. 3992, which seeks to suspend the duty on this provision through December 31, 1992, should also be viewed favorably by the Subcommittee. Such a suspension of duty will benefit the U.S. consumer, and, because there are no domestic manufacturers of this product, will not have any effect on the industry.

For all of these reasons, we respectfully urge the Subcommittee to favorably consider H.R. 3992.

Respectfully submitted,

Irwin P. Altschuler
Donald S. Stein

Brownstein Zeidman and Schomer
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Suite 900
Washington, D.C. 20005
(202) 879-5743

May 23, 1988

H.R. 4092

To continue until January 1, 1990, a reduced rate of duty on ceramic statues, statuettes, and handmade flowers

Before the

U.S. House of Representatives

Committee on Ways and Means

Subcommittee on Trade

In the Matter of

H.R. 4092

100th Congress, 2nd Session

A PROPOSAL TO CONTINUE A
REDUCED RATE OF DUTY ON
CERTAIN CERAMIC ART WARE

Ceramic Statues, Statuettes
and Hand-Made Flowers
under TSUS Item 534.11

COMMENTS IN SUPPORT OF H.R.4092 OF IMPORTERS OF CERAMIC STATUES, STATUETTES AND HAND-MADE FLOWERS FROM THE UNITED KINGDOM AND CONTINENTAL EUROPE

These comments are presented pursuant to invitation of the House Ways and Means Subcommittee on Trade, set forth in Subcommittee Release No. 19 of April 27, 1988, on behalf of the Associated British Ceramics Importers, Inc. and importers of ceramic art ware from West Germany and other European countries. Copies of the Subcommittee release, of H.R. 4092 and of the appropriate pages from the Tariff Schedules of the United States relating to TSUS Items 909.20 and 534.11 are attached as Appendices A, B, and C respectively.

Summary

The importers of art ware from the United Kingdom and Continental Europe support H.R. 4092 which would continue the present reduced duty rate of 2.6% on ceramic statues, statuettes and hand-made flowers until year-end 1989.

H.R. 4092 Would Continue Prior U.S. Law

Statues, statuettes, and hand-made flowers, not specially provided for, valued over $2.50 each, and produced by professional sculptors or directly from molds made from original models produced by professional sculptors are classified for duty purposes under Item 534.11 of the Tariff Schedule of the United States with a Most-Favored-Nation duty rate of 3.1% *ad valorem*.

Under prior legislation, giving effect to temporary trade agreements, the 3.1% *ad valorem* rate had been reduced during the period 1984-1987. The latest rate applicable to the foregoing art ware under the temporary provisions of TSUS Item 947.29 was the rate for 1987, to wit, 2.6% *ad valorem*. This reduced rate terminated at the close of December 31, 1987.

H.R. 4092 would continue the 1987 rate of 2.6% ad valorem until December 31, 1989, and would permit liquidation of entries made after December 31, 1987 and before the 15th day after enactment of H.R. 4092.

H.R. 4092 Would Benefit American Consumers

The statues, statuettes and hand-made flowers which are the subject of H.R. 4092 are highly artistic and decorative products, generally considered as art or collectibles in the United States. By definition, they are products of professional artists, predominantly purchased for their specific artistic appeal. Typical examples include ceramic representations of persons, professions (e.g. military statuettes), fictional characters, animals, and floral productions, usually ranging in value well above the statutory definition to thousands of dollars for state presentation pieces, such as those given from time to time to the United States, the White House, heads of governments, or as commemorative gifts.

H.R. 4092 Would Stimulate American Ceramic Art

The availability of such art ware, as classified under TSUS Item 534.11 broadens the selection of the American connoisseur and consumer, and brings to the United States the cultural heritage and artistic benefits of leading ceramic art of other countries. At the same time, it stimulates the American market for ceramic art ware, developing the appreciation of ceramic art and opening the way for American artists and their products.

Since the art ware imports under TSUS Item 534.11 -- as well as their counterpart products made in the United States-- are highly individualistic in appeal, and highly distinct one from the other as to style and culture, there is no negative competitive impact by imports. Rather, imports complement United States art ware, and offer new impetus to American art.

CONCLUSION

The reduced duty which was applicable to ceramic statues, statuettes and hand-made flowers under TSUS Item 947.29 (534.11) was beneficial to the American collector and consumer, avoided unnecessary costs to importers, the art and decorative trades, and to the ultimate purchaser, and helped the appreciation of ceramic art, thereby fostering counterpart American artistic endeavors. These benefits deserve to be continued. Therefore, the importers of high-quality, high-value art and ornamental ware from the United Kingdom, and Continental Europe support the passage of H.R. 4092.

Respectfully submitted,

Conrad for

Association of British Ceramic
Importers
c/o Royal Worcester Spode, Inc.
26 Kennedy Boulevard
East Brunswick, New Jersey 08816

Importers of Ceramic Ware
from Continental Europe
c/o Villeroy & Boch (USA) Inc.
41 Madison Avenue
New York, NY 10010

BARNES, RICHARDSON & COLBURN
475 Park Avenue South
New York, New York 10016
and
1819 H Street, N.W.
Washington, D.C. 20006
Tel. (202) 457-0300
James H. Lundquist }
Gunter von Conrad } Of Counsel

May 23, 1988

H.R. 4103

To suspend for a 5-year period the duty on disperse yellow 27 dye

C&K Crompton & Knowles Corporation
Dyes and Chemicals Division

P.O. Box 33188 (3001 N. Graham Street)
Charlotte, North Carolina 28233
Telephone: (704) 372-5890
TWX 810-621-0562

May 2, 1988

Mr. Robert J. Leonard
Chief Counsel
Committee on Ways & Means
U.S. HOUSE OF REPRESENTATIVES
Room 1102 Longworth House Office Building
Washington, D.C. 20515

Ref: H.R. 4103

Dear Mr. Leonard:

Attached are six copies of a letter addressed to the Honorable Howard Coble (sponsor of the bill) which requests the denial of referenced duty suspension bill (for the reasons provided in same) which seeks to suspend for a 5-year period the duty on Disperse Yellow 27 dye.

Very truly yours,
CROMPTON & KNOWLES CORPORATION

George M. Mackie

George M. Mackie
Product Manager

Crompton & Knowles Corporation
Dyes and Chemicals Division

P.O. Box 33188 (3001 N. Graham Street)
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Telephone: (704) 372-5890
TWX 810-621-0562

April 15, 1988

The Honorable Howard Coble
U. S. HOUSE OF REPRESENTATUVES
Washington, D.C. 20515

Ref: H.R. 4103

Dear Mr. Coble:

It has been brought to my attention that you have insitituted a bill H.R. 4103 requesting duty suspensions on DISPERSE YELLOW 27.

Please be advised that CROMPTON & KNOWLES CORPORATION, a U.S. manufacturer of DISPERSE YELLOW 3 and a potential manufacturer of DISPERSE YELLOW 27 opposes this request for duty suspension. DISPERSE YELLOW 27 would be a direct threat to sales of our own manufactured DISPERSE YELLOW 3 and it is for this reason that we are taking this position.

Very truly yours,
CROMPTON & KNOWLES CORPORATION

George M. Mackie

George M. Mackie
Product Manager

Crompton & Knowles Corporation
Dyes and Chemicals Division

P.O. Box 33188 (3001 N. Graham Street)
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June 6, 1988

Mr. Robert J. Leonard
Chief Counsel
Committee on Ways & Means
U. S. HOUSE OF REPRESENTATIVES
Room 1102, Longworth House Office Building
Washington, D.C. 20515

Ref: H.R. 4103

Dear Mr. Leonard:

After my conversation with Mr. Thomas Gillette of the U.S. Department of Commerce, I have determined that CROMPTON & KNOWLES will produce small quantities of pilot plant materials of DISPERSE YELLOW 27 within one month and commercial quantities for sale shortly thereafter (2-3 months). This information backs up our request for denial of subject duty suspension bill.

Very truly yours,
CROMPTON & KNOWLES CORPORATION

George M. Mackie

George M. Mackie
Product Manager

H.R. 4167

To provide for permanent duty-free treatment on imports of certain tartaric chemicals

Before the

U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON TRADE

STATEMENT OF

TARTARIC CHEMICALS CORPORATION

IN SUPPORT OF H.R. 4167

To provide for permanent duty-free
treatment of certain tartaric chemicals

BARNES, RICHARDSON & COLBURN
1819 H Street, N.W.
Washington, D.C. 20006

Matthew T. McGrath
of Counsel

May 23, 1988

This statement is submitted on behalf of Tartaric Chemicals Corporation, 515 Madison Avenue, New York, N.Y. ("TCC"), pursuant to the release of the Subcommittee on Trade of the Committee on Ways and Means (Release No. 19, April 27, 1988), inviting comments with respect to certain miscellaneous tariff bills. TCC strongly supports the enactment of H.R. 4167, introduced by Representative Bill Green, to provide for permanent duty-free treatment of imports of certain tartaric chemicals, for which a duty suspension been in effect for the last several years and with respect to which duty-free treatment will be of substantial benefit to U.S. industry and consumers. The existing tariff suspension has made available four tartaric chemicals which are not manufactured in the United States, and for which the regular duty rates were unnecessarily restrictive and inflationary. No domestic production of these chemicals has taken place during the period the duty has been suspended, and there is no prospect that any production will resume in the United States, due to the unique nature of the chemical and its production processes. Since there has been no demonstrated reason to maintain the tariff over the life of the past two successive duty suspensions, and permanent elimination of the tariff would benefit U.S. importers, pharmaceutical and food producers, and consumers, TCC supports the enactment of H.R. 4167.

Product Description

The products covered by this bill are tartaric acid, sodium tartrate, cream of tartar, and potassium antimony tartrate. Tartaric acid is a dibasic dihydroxy acid which occurs in grapes as potassium salt. During the fermentation of wine, the potassium is deposited in the vats, and is extracted for use in producing tartrates. Crude tartars, the raw materials used for chemical reactions which yield tartaric acid, may be recovered from the crystallized residues from grape juice press cakes or from crystalline crusts which form in wine vats during the secondary fermentation period. Tartars may also be recovered from lees, the dried wine fermentation sediments composed of yeast cells, pectinous substances and tartars. Because of annual variations in the cost of raw materials and inconsistencies in chemical processes, tartaric acid has not generally been produced synthetically in commercial form. Thus, the producers of tartrates rely heavily on the natural fermentation methods developed in Italy and Spain as an adjunct to the wine production industries in those countries. These methods are not generally utilized by wine producers in the United States. The following are the specific chemicals involved and their uses:

(1) Tartaric Acid is imported in powder or granular form and is used as an acidulant in carbonated and still beverages, as well as in the manufacture of gelatin and pectin jellies and candies. In combination with its salts, tartaric acid may be used in paste and powder cleansers and for electrolytic polishing of copper and ferrous metals. It is also used as a mordant in textile dyeing, for photographic developing, and for blueprinting.

(2) Rochelle Salts, or sodium tartrate, is also imported in granular form. It is used as a bath component in electroplating of various metals and alloys and in the silvering of mirrors.

(3) Cream of Tartar, or potassium bitartrate, may be produced by combining tartaric acid and rochelle salt solutions with potassium sulfate, which is heated, filtered and purified. It is imported in granular or powder form and may be used in baking powder or prepared baking mixes, or for the aeration of cakes. Like other tartrates, it is used in the electrolytic tinning of iron and steel and in gold and silver coating of metals.

(4) Tartar Emetic, or potassium antimony tartrate, is produced through the combination of potassium bitartrate and antimony oxide in a reaction vessel. It is also imported in crystalline form, and may be used medicinally as an expectorant or emetic, or industrially as a dyeing mordant in cotton, leather or fur.

The foregoing chemicals are classified upon importation respectively under TSUS Item 425.94 (4.3% ad valorem); TSUS 426.82 (4.1% ad valorem); TSUS 426.76 (4.6% ad valorem); and TSUS 426.72 (1.8% ad valorem). At the present time, they are provided for in Part 1 of Schedule 9 of the TSUS, Items 907.65, 907.66, 907.68 and 907.69, subject to temporary legislative duty suspension.

The primary source countries for these chemicals are Italy, Spain, and other Western European countries. There is no production of these chemicals in the United States, and it is believed that no significant commercial quantity has been produced in the United States since the late 1950s or early 1960s.

Previous Tariff History

These tartrates have been the subject of successive duty suspension measures enacted by the 97th and 98th Congresses. H.R. 1910, also introduced by Rep. Green during the first session of the 97th Congress, was enacted as Section 139 of P.L. 97-446. It was reported by the Committee on Ways and Means at that time that the conversion of tariffs from specific to ad valorem equivalent rates of duty during Tokyo Round of the negotiations on the General Agreement on Tariffs and Trade had failed to take account of inflationary price increases which occurred subsequent to the time of the underlying calculations upon which the ad valorem conversions were based. The Committee concluded that "... the three threefold tariff increase due to conversion was so large a cost as to have an extremely burdensome and immediate effect on imports, and [the Committee believes] that the importers should not be penalized as a result." H. Rep. No. 97-257, 97th Cong., 1st Sess. 15 (1981). Consequently, the Committee reported favorably on the temporary duty suspension at that time, and the suspension became effective with respect to entries as of July 1, 1981.

In 1984, the Committee on Ways and Means reported favorably on a bill, H.R. 4513, extending the duty suspension for these chemicals for four years. H. Rep. No. 98-1015, 98th Cong., 2d Sess. 43-45 (1984). This extension was enacted as Section 152 of the Trade and Tariff Act 1984, Pub. L. No. 98-573. Importers and purchasers pointed out the benefits which had been realized from the initial suspension period, and the Administration voiced no objection to the measure.

A Permanent Duty Elimination Would Benefit Purchasers and Consumers

In a recent study of the cost savings or other benefits to U.S. consumers resulting from duty suspensions in the 1984 Act, the U.S. International Trade Commission concluded that, with respect to the category of 25 chemicals including these four tartaric chemicals, for which duty suspensions were granted, "... firms gaining duty savings as a result of the temporary suspensions consider that the greatest benefits resulting from this type of legislation are the improved quality in increased end-product capacity utilization aspects that lead to greater end-product price stability benefiting their customers." Cost Savings or Other Benefits or Other Benefits to U.S. Consumers Resulting from Temporary Duty Suspensions in the Trade and Tariff Act of 1984, USITC Investigation No. 332-247, USITC Pub. No. 2060, at 23 (February 1988). Significantly, the staff of the Commission estimated that at least 50% of the cost savings resulting from the temporary duty suspensions for chemicals in this group was passed on to consumers.

These conclusions accurately describe the experience of the importers and purchasers of tartrates during the time the suspension has been in effect. These tartrates are utilized primarily in applications for which there are no substitutes, and consumers have realized the cost savings. A principal purchaser informed the Commission that the main benefit has been cost savings to end-user purchasers who buy the products in which tartrates are included. Furthermore, the purchaser noted that, as average selling prices declined in 1984 and 1985, imports of tartaric acid and cream of tartar increased, and thus, sales increased as well.

Re-institution of the applicable duties will simply increase prices by 2 to 5%, without providing any benefit to any U.S. industry or workers. As was pointed out in 1984, extreme short-term fluctuations in price, caused by periodic shortages of tartrate raw materials, can result in unexpected and rapid price escalation which would be compounded by the addition of ad valorem duties. Furthermore, importers of tartrates from Italy, Spain and France would bear a disproportionate burden of newly introduced tariffs (which have been suspended since 1981). The quality of tartrates produced in Europe is considered superior by many U.S. industrial purchasers, and there exists a market preference for tartrates from these countries, depending upon the requirements for end-use of the product. Since these tartrates are more costly to produce, import values and assessed duties will obviously be higher than for those produced under less costly processes. As the Committee concluded in 1981, "[t]he suspension would assist U.S. importers of the chemicals from Italy and Spain to compete with tartaric products entered duty-free from Argentina under the Generalized System of Preferences." H. Rep. No. 97-257, 97th Cong., 1st sess. 15 (1981). Conversely, the reversion to current tariff rates on these products would impair the ability of importers from European suppliers to compete with the much lower cost GSP eligible product.

Finally, since there has been no adverse result from the existence of this tariff suspension, which has been twice enacted and has been in effect for almost seven years, TCC submits that a permanent duty-free rate should be established. There is no need to protect any U.S. production, which ceased long ago and has no prospect of resumption. Since the duty has been suspended for such a long period, these chemicals cannot be considered active targets of multilateral trade concessions. Another extension of the existing suspension in lieu of repeal would merely necessitate yet another renewal request at the end of that extension period, simply to maintain a pricing condition which has now become status quo in the tartrate business. Commercial and legislative economy suggest that a permanent elimination of the tariffs for these chemicals be enacted.

For the foregoing reasons, TCC strongly urges the Subcommittee and the Committee to report favorably on H.R. 4167, to eliminate tariffs on certain tartaric chemicals.

Respectfully submitted,

TARTARIC CHEMICALS CORPORATION

By: Matthew T. McGrath

BARNES, RICHARDSON & COLBURN
1819 H Street, N.W.
Washington, D.C. 20006

Matthew T. McGrath
of Counsel

H.R. 4240

To suspend temporarily the duty on certain glass bulbs until January 1, 1993

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CHARLES S. THOMAS
1924-1975

May 20, 1988

Robert J. Leonard, Esq.
Chief Counsel
Committee on Ways and Means
U. S. House of Representatives
Room 1102
Longworth House Office Building
Washington, D.C. 20515

Re: Duty-Suspension Bill H.R. 4240/Monochrome Glass Bulbs

Dear Mr. Leonard:

Clinton Electronics Corporation ("Clinton") of Rockford,Illinois, tenders this submission as its public comment in support of its duty suspension bill (H.R. 4240) sponsored by Congresswoman Lynn Martin. It is anticipated that the aforesaid duty suspension bill will be introduced in the Senate in the near future.

SUMMARY OF POSITION

Clinton's sole business activity is the manufacture of monochrome cathode-ray tubes (CRT's). H.R. 4240 seeks a temporary suspension of the duty on the import of certain monochrome glass bulbs until January 1, 1993. The glass bulbs in question are imported from Taiwan and are classified under TSUS item number 547.3720. The imported items are the primary component in the production of monochrome CRTs by Clinton. The CRTs are utilized in end products such as computer terminals, word processors and various medical electronics applications.

Clinton lost duty-free status under the Generalized System of Preferences ("GSP") on the import of the monochrome glass bulbs on July 1, 1987. Efforts to restore GSP duty-free status on the import of the items were interrupted by recent Executive action removing all imports from Taiwan from GSP duty-free eligibility.

Clinton has sought a domestic source of supply of the monochrome glass bulb but unfortunately no domestic source exists. To remain cost competitive in the face of intense foreign competition from countries such as Korea and Japan, Clinton is in need of duty-free status for its imported bulbs.

DESCRIPTION OF THE SUBJECT IMPORTED PRODUCT AND ITS USE BY CLINTON

The monochrome glass bulbs imported by Clinton from Taiwan have a relatively flat panel and an open neck. The glass panel is etched in various manners. Clinton applies an electronic phosphor to the inside panel of the monochrome bulb, seals an electron gun in the neck of the bulb, pulls a vacuum and seals the tube. The tube is then subjected to additional electronic processing, testing and inspections prior to shipping. The stated process is made possible with the use of innovative technology that is unique to the world and proprietary to the company. The processing in the Clinton plant is unique in light of its ability to produce CRTs of varying sizes and qualities without the need for changeover of equipment or interruption of production. Such versatility is necessary to enable Clinton to serve its market.

The monochrome glass bulbs imported by Clinton from Taiwan are produced in quantities with various qualities that are uniquely adopted to the Clinton production process. In order to satisfy the needs of its customers, Clinton has been required to produce CRTs comprised of monochrome glass bulbs having unique and critical characteristics such as size, transmission values and face plate etchings. Clinton production generally requires 31% transmission bulbs and/or etched face plates. The 31% transmission figure means that 31% of the light striking the CRT screen passes through it. This characteristic provides for better readability by enhancing the contrast between bright characters on the screen and the dark background. Etching of the face plates eliminates glare on the CRT screen from surrounding lights.

NO U.S. PRODUCTION OF THE SUBJECT IMPORTED GLASS BULBS

No U.S. producers offer the glass bulbs required by Clinton and have not produced glass bulbs having the aforesaid qualities since 1984. The boom in the color television market in the 1970's drew U.S. producers towards the manufacture of color CRTs which utilized color glass bulbs as opposed to monochrome glass bulbs. Further, monochrome television CRT production went offshore in the 1970's reinforcing the collapse in U.S. demand for monochrome glass bulbs. The firms which formerly supplied Clinton with its monochrome glass bulbs therefore effectively ceased their production of monochrome glass bulbs required by Clinton.

There is some limited domestic production of highly specialized monochrome CRTs (e.g., for jet fighters) for markets which Clinton does not serve. The glass bulbs utilized in the production of the specialized CRTs are produced domestically but are not suited in any manner to production of the product which Clinton's customers require.

Clinton was therefore forced to seek alternate sources for its monochrome bulbs which Clinton could utilize in producing monochrome CRTs for its market. The only current viable source for monochrome glass bulbs required by Clinton is located in Taiwan. Clinton would certainly prefer a domestic source with its attendant advantages of reduced transportation costs, quicker delivery and easier ability to resolve production problems. But, despite diligent efforts, Clinton has been unable to find a willing and able domestic source.

Clinton's customers place CRT orders ranging in quantities from a few CRTs to many thousands. Much of Clinton's output of CRTs consists of small lot sizes with characteristics specific to the individual needs of the particular customer. Only Clinton's source in Taiwan has been able to supply the bulbs in lot sizes needed by Clinton.

CLINTON MUST HAVE DUTY-FREE STATUS FOR THE SUBJECT GLASS BULBS TO REMAIN INTERNATIONALLY COMPETITIVE

The international CRT market has become extremely competitive. The intensity of the competition is readily demonstrated by the fact that Clinton is the only remaining domestic producer of monochrome CRTs for the general use, merchant market. Fourteen other U.S. producers have closed their domestic operations completely due to the competitiveness of the market.

The most intense competition faced by Clinton in the international CRT market comes from countries such as Korea and Japan. Producers in those countries have drastically slashed their U.S. prices in efforts to lure Clinton's customers. Such competition has forced Clinton to market its CRTs for alarmingly low average selling prices. Despite Clinton's efforts to remain in the international market by cutting its CRT prices, it has still lost a considerable amount of business, particularly to the Japanese.

One factor which had enabled Clinton to survive against the onslaught of foreign competition was the GSP duty-free status of the glass bulbs which Clinton imports from Taiwan. The cost of the imported bulb represents approximately one-third (1/3) of the end item cost. The bulb itself is more costly than any other single component of the monochrome CRT. It is therefore very easy to see that the July 1, 1987 imposition of the 6.6% *ad valorem* duty on imported glass bulbs from Taiwan will make it difficult, if not impossible, for Clinton to keep its CRT production cost at a level which will enable it to compete in the international CRT market.

Clinton has lost customers to foreign suppliers because of CRT price differentials of as little as a few cents per tube. Clinton is able to document numerous instances where it lost orders to foreign competition strictly on the basis of price. In such an environment, the significant existing duty on the imported glass bulbs, by increasing Clinton's average CRT unit cost, translates immediately into lost business.

Clinton has six coating lines for CRT processing. At the present time, only three lines are being used full-time. Direct and indirect labor in 1987 averaged approximately 418 people. A recent study by Mr. John R. Feehan, Manager of Clinton Manufacturing Administration, shows that the current Clinton labor force in the Rockford, Illinois plant is now only 352 people, which includes 70 temporary people hired through Manpower agencies. International competition coupled with the imposition of the 6.6% duty has obviously had a deleterious effect on Clinton and its employees. In light of international market conditions, the long term effect could be even more traumatic. The loss of business which has led to layoffs and decreased production are particularly ownerous because they occur in the Rockford, Illinois area, an area which has long been the victim of high unemployment and depressed economic conditions.

CONCLUSION

Clinton's customers require a product that is produced with a glass bulb that has, since at least 1984, only been produced in Taiwan. No U.S. producer suffers in any manner from import competition as a result of Clinton's importation of monochrome glass bulbs from Taiwan. Clinton believes that there are no other domestic importers of the specific articles (monochrome glass bulbs) that are imported by Clinton from Taiwan.

The imposition of the 6.6% duty on July 1, 1987 on Clinton's imports of monochrome glass bulbs has adversely impacted Clinton and its employees. That adverse impact magnifies an already tenuous position in the international CRT market. Whether or not Clinton will continue to be a viable domestic producer of monochrome CRTs remains to be seen. Clinton believes that the documented adversity which it faces can be reversed if its duty suspension bill is passed. The duty suspension will increase the competitiveness of Clinton's products in domestic and foreign markets and will help restore Clinton and its employees. It is respectfully submitted that a duty suspension will not be injurious to any other domestic businesses and that it would most likely be the single most important factor in enabling Clinton to again compete meaningfully in the international CRT market. On behalf of my client and its employees, I urge your support for duty suspension bill H.R. 4240.

Respectfully yours,

CLINTON ELECTRONICS CORPORATION

By: Charles P. Kostantacos
Charles P. Kostantacos
One of its Attorneys

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1776 K Street, Suite 606
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(202 296-3355

EXHIBIT I

This Exhibit is submitted to assist the reader in evaluating Clinton's position. Clinton seeks a duty suspension with respect to monochrome glass bulbs and not with respect to color glass bulbs. Monochrome glass bulbs and color glass bulbs, both of which fall within TSUS 547.3720, are separate and distinct products.

There are numerous physical differences between monochrome glass bulbs and color glass bulbs. First, the chemical properties of the bulbs are significantly different due to their different end uses. Monochrome CRTs are operated at much lower anode voltages than color CRTs. The higher operating voltage of color CRTs requires special chemical properties for the color glass bulb so that electron browning of the glass and emission of injurious levels of x-radiation are prevented. Color glass bulbs are significantly thicker than monochrome bulbs and they contain strontium while monochrome glass bulbs contain lead oxide.

Second, monochrome glass bulbs are a completed one piece unit when sold by the bulb manufacturer. Color glass bulbs are sold by the bulb manufacturer in separate components. The color glass bulbs must be sold as separate pieces so that the color panel can undergo certain necessary additional processing of the screen at the customer's facilities.

Third, the transmission characteristics of the bulbs also differ greatly. Clinton is not aware of any color glass bulbs which are produced that have the 31% transmission characteristic of the monochrome glass bulbs required by Clinton in the bulk of its production.

Finally, the end uses of monochrome glass bulbs and color glass bulbs differ. Monochrome glass bulbs are utilized to produce monochrome CRTs and color glass bulbs are utilized to produce color CRTs. The U.S. International Trade Commission has previously found that monochrome CRTs and color CRTs constitute separate and distinct products.[1]

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[1] Color Picture Tubes from Canada, Japan, the Republic of Korea, and Singapore, Inv. No. 731-TA-367 to 370, USITC Pub. 1937 (January 1987) A-4 to A-6.

STATEMENT BY CORNING GLASS WORKS IN OPPOSITION TO H.R.4240

**Submitted to the Subcommittee on Trade,
Committee on Ways and Means, U.S. House of Representatives**

May 23, 1988

H.R.4240 was introduced on March 19, 1988 to provide duty-free treatment to monochrome glass envelopes for cathode ray tubes ("CRTs") through December 31, 1992. Pursuant to Press Release #19, released April 27 by the Subcommittee on Trade, Corning Glass Works hereby registers its opposition to H.R.4240. The reasons for our opposition to this bill may be summarized as follows:

1. H.R.4240 is an attempt by Clinton Electronics Corporation ("Clinton") to circumvent the Administration's negative decision on its GSP petition, which was denied after a 13-month review including public hearings and advice from the U.S. International Trade Commission ("USITC").

2. If enacted, H.R.4240 would adversely affect U.S. manufacturers of products like or directly competitive with monochrome glass envelopes.

3. H.R.4240 would provide a unilateral trade concession to Japan and Taiwan, the major suppliers, at a time of severe trade imbalances.

TPSC denied Clinton petition for duty-free treatment after full review

On January 2, 1987, the U.S. Trade Representative ("USTR") announced the President's determination under the General Review of the GSP that Taiwan had been found to be "sufficiently competitive" with respect to articles classified under TSUS 547.37, which include monochrome glass envelopes for CRTs. As a result of this product-specific finding, Taiwan was subjected to reduced competitive need limits which triggered the loss of GSP eligibility effective July 1, 1987. In reaching this discretionary determination of competitiveness against Taiwan on this product, the President was required to take into account several factors including Taiwan's general level of development, its competitiveness in the specific product, and various factors relating to Taiwan's trade practices.

Five months after the announcement of the President's decision against Taiwan on this product, Clinton filed a petition with USTR pursuant to the GSP program's Annual Review procedures. Clinton asked that the President's decision be reversed as it applied to the product of concern to them (monochrome glass envelopes) by requesting that Taiwan be granted a waiver of the GSP's competitive need limits for these products. If successful, the petition would have allowed Taiwan to regain GSP duty-free treatment effective July 1, 1988.

The petition requested a waiver of the competitive need limits through two alternative channels. First, Clinton requested a waiver of the 25 percent competitive need limit pursuant to section 504(d) of the Trade Act of 1974, as amended. Under this provision, the President is directed to waive the percent-based competitive need limit if he determines there was no U.S. production of a like or directly competitive article on January 3, 1985.

This aspect of Clinton's petition was denied by the President as announced on April 1, 1988. While the Trade Policy Staff Committee does not normally make public the rationale for its recommendations to the President on GSP cases, we must assume that it found that there did exist U.S. production of articles like or directly with the item of concern to Clinton. (This assumption is based on the fact that the President's determinations under section 504(d) are not discretionary; if he determines that the no U.S. production criterion is met, the competitive need limit must be waived.) Moreover, it should be noted that Clinton's contention of no U.S. production was challenged by U.S. manufacturers including Corning.

The second channel pursued in the Clinton petition was a request for a competitive need waiver pursuant to section 504(c)(3)(A). In making his determination under this section, the President was directed to consider several factors. In addition to examining, inter alia, the effect of a waiver on U.S. producers, the President was required to give "great weight" to two factors: (a) what Taiwan was doing to open up its markets to U.S. exports; and (b) what Taiwan was doing to protect U.S. copyrights, patents and trademarks.

This aspect of the Clinton petition was also denied.

In summary, Clinton was denied a restoration of duty-free treatment after a formal 13-month review of its petition. The review provided for a full airing of views of all interested parties, solicited directly by the TPSC and also through independent hearings conducted by the USITC. It clearly would be inconsistent for the Congress to overturn the decision reached through this process by enacting a duty suspension bill, especially given the direct affirmation of the existence of U.S. production of like or directly competitive articles.

(We should note that the event that initially caused Clinton to seek duty suspension legislation apparently was not the negative decision on its GSP petition--which was not announced until 13 days after the bill's introduction--but rather the earlier announcement of the President's decision to graduate Taiwan and certain other countries from the GSP program completely next January. However, it is important to note that the TPSC proceeded with its deliberations on product-specific cases involving Taiwan on a "business-as-usual" basis. Thus, the negative determinations reached with respect to both aspects of the Clinton petition were based on the merits of the case and not simply on general perceptions regarding Taiwan's overall competitiveness and general level of development.)

U.S. producers would be adversely affected by duty suspension

As noted above, the President--acting on the recommendation of the TPSC and taking into account information developed independently by the USITC--made a statutory determination less than two months ago of U.S. production of articles like or directly competitive with monochromatic envelopes. For example, color glass envelopes for CRTs can be used for monochromatic applications in display terminals. Corning has sold color tubes for monochromatic applications to U.S. CRT manufacturers at prices competitive with the monochrome product.

Japan and Taiwan would get a free ride

H.R.4240 would give a unilateral tariff concession to two countries with which the United States has enormous trade imbalances. Japan and Taiwan, the two leading foreign suppliers, exported $4.3 million and $1.7 million, respectively, of glass envelopes for CRTs to the United States in 1987. (Although separate data are not available for monochrome envelopes, we believe that Japan and Taiwan are the leading suppliers of these articles as well). We do not believe the United States should throw away this negotiating leverage, particularly in the present circumstances where Taiwan has been specifically denied duty-free treatment after a consideration of factors that relate directly to its restrictive trade practices.

Conclusion

For the foregoing reasons, Corning Glass Works respectfully requests that the Committee cease consideration of H.R.4240.

Respectfully submitted,

Donald H. McConnell

Donald H. McConnell, Jr.
Business Manager, Video Products
Corning Glass Works

H.R. 4244

To suspend for 3 years the duty on Bentazon

Comments of FMC Corporation

on H.R. 4244

For the reasons set forth herein, FMC Corporation opposes H.R. 4244, a bill intended to suspend duties on a European produced herbicide material. Specifically, H.R. 4244 was introduced by Representative Vander Jagt to suspend for three years duty on Bentazon, a herbicide produced in Europe by BASF A.G. of the Federal Republic of Germany.

Background

BASF enjoys a large share of the herbicide market in the United States, particularly with respect to broadleaf control products for soybean crops. The subject product bentazon, sold under the BASF trademark Basagran, in particular enjoys a market share in excess of 18 percent (1987: 18.6 percent). FMC Corporation produces a competing product sold under the trademark Command®.

BASF formerly produced Basagran at a plant at Geisman, Louisiana, which, despite Basagran's large U.S. market share, was closed by BASF in recent months. FMC understands that the product is now produced by BASF solely at its Ludwigshafen, West Germany facilities. Now BASF is seeking to ship the product from its European facilities to sell in the United States under the benefit of the proposed duty suspension.

Threat to Jobs and Investment

Like a number of other U.S. herbicide producers, FMC has made significant investment, in the form of capital for facilities as well as research and development costs, in its soybean herbicide product. A number of jobs* at FMC's Baltimore, Maryland, and Middleport, New York, production facilities and in FMC's distribution and marketing operations are involved in production and sales of that product. Jobs at FMC suppliers, including, for example, packaging and transportation services are also linked to such production and sales jobs. It is likely that the increased advantage to BASF offered by H.R. 4244 would result in the reduction of FMC market share as well as that of many other U.S. producers. Reduction of market share would inevitably result in loss of FMC production and marketing jobs. Ultimately, moreover, the large investment made by FMC in developing its product would also be in jeopardy.

Inequitable Tariff Treatment

U.S. herbicide products entering the European markets in which they compete with BASF's product are subject to significant tariffs. To suspend the U.S. duty without concommitant suspension of such European duties results in an inequitable tariff treatment which would disadvantage U.S. producers. Such treatment is clearly repugnant to the substantial efforts of U.S. trade negotiators to obtain "level playing fields" for U.S. products. BASF should not be permitted to compete on a duty free basis with U.S. producers while those producers are not permitted duty free treatment in its home market. FMC further purchases significant quantities of necessary raw materials for its competing product which were produced outside the United States; duties must be paid on these items by FMC. The unfairness of the proposed duty suspension would be further aggravated by the fact that FMC would be paying duties with respect to its own production while BASF would pay no duties either for its product or the materials therein.

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* A precise number cannot be affixed to these jobs since they typically integrated with production and sales of other FMC products.

Conclusion

In effect, BASF is seeking to "have its cake and eat it too" by abandoning its U.S. production for this product but still being able to avoid payment of the duty applicable to foreign producers. Passage of H.R. 4244 would result in an unfair advantage to BASF and a corresponding disadvantage to U.S. producers in their own country.

H.R. 4266

To temporarily suspend the duty on mixed ortho/para toluene sulfonomide

May 17, 1988

WRITTEN TESTIMONY OF DAY-GLO COLOR CORP.

IN SUPPORT OF H.R. 4266

Day-Glo Color Corp. is a United States company principally engaged in the manufacture, use, and sale of daylight fluorescent pigments. It has manufacturing facilities in Cleveland, Ohio and Cudahy, California and regional sales offices and warehouse facilities throughout the United States. Its corporate headquarters are in Cleveland, Ohio.

Day-Glo strongly supports H.R. 4266, a bill to temporarily suspend the duty on mixed ortho/para toluene sulfonomide (the "Product"). Day-Glo uses the Product as a reactive plasticizer in the production of daylight fluorescent pigment. The Product is the key element in the production of most of Day-Glo's fluorescent pigments, accounting for approximately 25 percent of Day-Glo's total raw material costs. Day-Glo cannot produce satisfactory quality fluorescent pigments unless it uses the Product as the reactive plasticizer in its production process.

There have been no domestic producers for over two years of the Product. Day-Glo and all other domestic consumers of the Product have been forced to purchase this essential raw material exclusively from foreign producers. Day-Glo's forced dependence on foreign-produced Product has increased Day-Glo's costs and reduced its competitiveness vis-a-vis foreign companies in both the United States and in foreign countries. To date, Day-Glo has been able to minimize this problem by purchasing most of its requirements of the Product duty-free from South Korea and Taiwan under the GSP program. However, Day-Glo has been unable to obtain adequate duty-free supplies from GSP-eligible countries and it has been forced to purchase the Product and pay duties on shipments from Japan and the Netherlands. The result has been increased costs and reduced competitiveness.

Unless the duty on the Product is suspended, Day-Glo's ability to continue to compete with foreign manufacturers will turn dramatically downward on January 2, 1989. On that date South Korea and Taiwan will lose their GSP eligibility, and Day-Glo will be forced to pay duty on all of its imports of the Product. Day-Glo's raw material costs will skyrocket because a 17.7% tariff will be imposed on all imports. That in turn will harm Day-Glo's ability to compete both here in the United States and abroad.

Day-Glo Color Corp. supports H.R. 4266. No U.S. industry will be harmed by this temporary duty suspension because there are no domestic manufacturers of the Product. Day-Glo Color Corp. and other U.S. consumers of the Product will be made more competitive in the world economy because of the proposed duty suspension. Therefore, Day-Glo strongly urges the Committee to act affirmatively on H.R. 4266.

H.R. 4269

To suspend temporarily the duty on furniture of unspun fibrous vegetable materials

artisan
imports
ltd. P.O. Box 341 Burleson, TX 76028 phone: (817) 295-8131 telex: 758288 Artisan BUSN

May 12, 1988

Mr. Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
Room 1102 Longworth House Office Building
Washington, DC 20515

Dear Mr. Leonard:

We are wrting to you to express our support for H.R. 4269, a duty suspension bill for furniture made of unspun fibrous vegetable materials.

Artisan Imports' continued growth some what rely on its international capabilities. Passage of H.R. 4269 will help continue providing quality products to retailers and the final consumers, assuring stable job opportunities for those working in our small organization. WE feel that we are providing job opportunities that is very unique in a country side location such as ours.

The government decision to impose import duties on rattan furnitures come out of Taiwan had wiped out well over 1.5 million dollar worth of our business instantly coupled with the revaluation effect of Taiwan currency. If no alternative sources were lined up, we certainly had to consider reduction of employees in our operation.

If you need any additional informaiton, please do not hesitate to call or write to us.

Sincerely,

Ted Miyamoto

BROWN JORDAN
P.O. Box 5681
El Monte, California 91734
Telephone (818) 443-8971

Brad Proesch
Vice President
International Operations

May 16, 1988

Mr. Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
Room 1102 Longworth House Office Building
Washington, DC 20515

Dear Mr. Leonard:

I am writing to you to express my support for H.R. 4269, a duty suspension bill for furniture made of unspun fibrous vegetable materials.

Brown Jordan's continued growth relies heavily on its international capabilities. Passage of H.R. 4269 will help continue providing quality products to consumers, assuring stable career opportunities for those working in the specialty furniture industry and providing business growth opportunities to retail merchants.

If you need any additional information, please do not hesitate to call.

Sincerely,

Brad Proesch

Brad Proesch
Vice President
International Operations

General Offices:
9860 Gidley Street
TWX 910-587-4932

Cane and Reed Imports, Inc.

5-13-88

Mr. Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
Room 1102 Longworth House Office Building
Washington, DC 20515

Dear Mr. Leonard:

I am writing to you to express my support for H.R. 4269, a duty suspension bill for furniture made of unspun fibrous vegetable materials.

Cane & Reed Imports' continued growth relies heavily on our international capabilities. Passage of H.R. 4269 will help continue providing quality products to consumers, assuring stable career opportunities for those working in the wicker and rattan import and wholesale business as well as providing growth opportunities to our customers, the retail merchants.

Sincerely,

STEVEN WONG
President

280 HARBOR WAY • SOUTH SAN FRANCISCO, CALIFORNIA 94080
TELEPHONE (415) 589-8822 • TELEX 67617 CANREED

Cheung's
RATTAN • IMPORTS
3311 W Castor St
Santa Ana, CA 92704
Telex: 298746 CHUN 714 549-9080

May 19, 1988

Mr. Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
Room 1102 Longworth House Office Bldg
Washington, DC 20515

Dear Mr. Leonard,

I am writing to you to express my support for H.R. 4269, a duty suspension bill for furniture made of unspun fibrous vegetable materials.

Cheung's Rattan & Imports' continued growth relies heavily on its international capabilities. Passage of H.R. 4269 will help continue providing quality products to consumers, assuring stable career opportunities for those working in the specialty retail industry and providing business growth opportunities to retail merchants.

If you need any additional information, please do not hesitate to call.

Sincerely,

CHEUNG'S RATTAN & IMPORTS

C.S. Cheung
President

GRAND
BASKET CO. INC.
RATTAN FURNITURE CO. INC.

May 16, 1988

Mr. Robert J. Leonard,
Chief Counsel
Committee On Ways And Means
U.S. House Of Representatives
Room 1102, Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Leonard,

We are writing to you to show our support for H.R. 4269. This bill requests a suspension of import duties on furniture made of unspun fibrous vegetable materials.

This classification of furniture is truly a noncompetitive category. The passage of H.R. 4269 will allow us to lower our costs and in turn lower our selling prices to the mass merchants throughout the country. The final result will be lower prices for the consumer, which in turn should benefit retail sales and therefore provide growth opportunities to these retail merchants.

Should you require additional information or wish to discuss this matter further, please do not hesitate to call upon us.

Very truly yours,

GRAND BASKET CO., INC.
GRANT RATTAN FURNITURE CO., INC.

Steven Sauer
Vice President

53-06 GRAND AVENUE, MASPETH, N.Y. 11378 • TEL: (718) 386-6400 (800) 327-2978 • FAX: (718) 417-0910 • TELEX: 422907 GRANBAS

HING INC. MANUFACTURER OF RATTAN FURNITURE

295 KANSAS ST.
SAN FRANCISCO, CA 94103
(415) 863-3356

May 20, 1988

Mr. Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
Room 1102 Longworth House Office Building
Washington, DC 20515

Dear Mr. Leonard:

This letter is written as an expression of my support for a duty suspension bill for furniture made of unspun fibrous vegetable materials, namely H.R. 4269.

Hing Incorporated's ability to prosper, thereby providing employment and growth in the wholesale furniture and related industries, depends on the smooth flow of its imports. Such related industries include interior design, upholstery, refinishing, glass, paint, and trucking. H.R. 4269's passage will aid in this prosperity, as well as enable us to continue providing quality consumer goods.

If I can provide any other information, please call on me.

Yours truly,

Michael T. Howley, General Manager

MARVIN L. WALKER & ASSOCIATES, INC.
MAILING ADDRESS: P. O. BOX 5600 • NORCROSS, GA 30091-5600
SHIPPING ADDRESS: 3045 KINGSTON COURT • NORCROSS, GA 30071-1290
(404) 446-0030 (800) 444-4470 TELEX-261348 WALKER UR
FAX: (404) 446-6570

May 17, 1988

Mr. Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
Room 1102 Longworth House Office Building
Washington, DC 20515

Dear Mr. Leonard,

We wish to go on record of supporting the bill H.R. 4269, a duty suspension bill for furniture made of unspun fibroces vegetable materials.

As suppliers of wicker and rattan components to the home furnishings industry, approval of N.R. 4269 will assist in the continued growth of marketing of hand-woven products in the U.S. This gives added impetus to related domestic production facilities, glass shelves and table tops, upholstery fabrics, and finishing materials are to name a few.

This style category has become an integral part of the U.S. furniture industry providing many assembly and retail positions throughout the United States.

If you require further information, please feel free to call upon us.

Yours truly,

William E. Parker

NEW TRENDS IMPORTS
3404 BELTLINE ROAD
DALLAS, TEXAS 75234
U.S.A.

May 12, 1988

Mr. Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
Room 1102 Longworth House Office Building
Washington , DC 20515

Dear Mr. Leonard,

I am writing to you to express my support for H.R. 4269, a duty suspension bill for furniture made of unspun fibrous vegetable materials.

New Trends continued growth relies heavily on it's International capabilities. Passage of H.R. 4269 will help continue providing quality products to consumers, assuring stable career opportunities for those working in the wholesale and retail industry and providing business growth to the retail merchants.

If you need any additional information, please do not hesitate to call.

Sincerely,

Robert E. Parker
President
New Trends Imports

(214) 243-2406 TELEX: 730-940

O'Asian
Designs
Inc.

May 16, 1988

Mr. Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
Room 1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Leonard:

I am writing to you to express my support for H.R. 4269, a duty suspension bill for the furniture made of unspun fibrous vegetable materials.

O-Asian Designs Inc's continued growth relies heavily upon its international capabilities. Passage of H.R. 4269 will help continue providing quality products to our wide range of Department Stores, Retail Furniture Stores, and Specialty Stores and hence to the ultimate consumer, and will assure stable career opportunities for those working in the specialty retail industry and providing business growth opportunities to retail merchants.

If you need any additional information, please do not hesitate to contact me.

Sincerely,

O-Asian Designs, Inc.

Patrick O'Kelley

F. Patrick O'Kelley
President

O-Asian Designs Inc
1100 West Walnut Street
Compton, California 90220
Telephone 213/604-8594

TWX
910 346 6386
Cable Address
OASIANS

Polar Island
CORPORATION
MANUFACTURERS
IMPORTERS
DISTRIBUTORS

611 EAST 133 ST.
BRONX, N.Y. 10454

TELEX 960895
POLAR ISLAND

TEL. 212-665-1707
FAX-212-402-8721

May 18, 1988

Mr. Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
Room 1102 Longworth House Office Building
Washington, DC 20515

Dear Mr. Leonard:

I am writing to you to express my support for H.R. 4269, a duty suspension bill for furniture made of unspun fibrous vegetable materials.

Polar Island Corp.'s continued growth relies heavily on its international capabilities. Passage of H.R. 4269 will help continue providing quality products to consumers, assuring stable career opportunitues for those working in the specialty retail industry and providing business growth opportunities to reatil merchants.

If you need additional information, please don't hesitate to call.

Sincerely,

POLAR ISLAND CORP.

DEAN DELA PENA
President

WICKER ■ RATTAN FURNITURE ■ BASKETWARES ■ WALL DECOR ■ GIFT ITEMS

THE WICKER WORKS

May 16, 1988

Robert J. Leonard, Chief Council
Committee on Ways and Means
U.S. House of Representatives
Room 1102
Longworth House Office Building
Washington, D.C. 20515

RE: H.R. 4269, Duty Suspension Bill

Dear Mr. Leonard:

I am writing to you to express my support for H.R. 4269, a Duty Suspension Bill for furniture made of un-spun fibrous vegetable materials.

The Wicker Works continued growth relies heavily on it's international capabilities. Passage of H.R. 4269 will help continue providing quality products to consumers, assuring stable career opportunities for those working in the specialty interior design industry and providing business growth opportunities to architectural and interior design corporations.

If you need any additional information, please do not hesitate to contact me.

Sincerely,

J. Wasserman
President, C.E.O.
The Wicker Works

267 Eighth Street, San Francisco, California 94103; telephone (415) 626-6730; telex 330408

H.R. 4294

To suspend until January 1, 1991, the duty on N-(2-hydroxyethyl)-2,4,6-triiodo-5-[2(2,4,6-triiodo-3-(N-methylacetamido)-5-(methylcarbamoyl) benzamido acetamido]-isophthalamic acid

No statements submitted.

H.R. 4295

To suspend temporarily the duty on 3-ethyl-8-hydroxylquinoline

No statements submitted.

H.R. 4296

To suspend temporarily the duty on naphthalic acid anhydride

No statements submitted.

H.R. 4299

To extend the duty arrangement on certain unwrought lead for a period of 4 years

NON-FERROUS METALS PRODUCERS COMMITTEE
1225 NINETEENTH STREET, N.W.
SUITE 210
WASHINGTON, D.C. 20036

Telephone (202) 466-7720
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The Non-Ferrous Metals Producers Committee submits this statement in support of H.R. 4299 to "extend the duty arrangement on certain unwrought lead for a period of four years." H.R. 4299 is sponsored by Congressman Hal Daub (R-NB). Given the large fluctuations in the price of lead, the effect of the legislation is to provide lead consumers a lower effective duty in periods of high price and to provide U.S. lead producers a measure of duty-level stability when prices are relatively low. Companion legislation, S. 2266, has been introduced in the Senate by Senator Danforth (R-MO).

The membership of the Non-Ferrous Metals Producers Committee includes the two major U.S. producers of primary refined lead, that is lead metal produced from lead ores or concentrates. The lead-producing members of the Committee are: Doe Run Company, 11885 Lackland Road, St. Louis, Missouri; and ASARCO Incorporated, 180 Maiden Lane, New York, New York.

ASARCO operates lead mines in Leadville, Colorado and in West Fork and Sweetwater, Missouri. ASARCO's lead-related plants are in East Helena, Montana, Omaha, Nebraska, Glover, Missouri, and El Paso, Texas.

Doe Run has primary lead smelters in Herculaneum and Buick, Missouri, and operates six mines and four mills in southeast Missouri.

The bill before the Subcommittee on Trade extends for a period of four years the soon-to-expire import duty provision for unwrought lead other than lead bullion (tariff item number 911.50). The provision provides that until December 31, 1988, the duty on unwrought lead is reduced from 3.5 percent ad valorem to 3 percent ad valorem but with a duty floor of not less than 1.0625¢ per pound of lead content. The duty will snapback to 3.5 percent with no provision for a duty floor on January 1, 1989 if the legislation is not extended.

At the time of the Tokyo Round of Multilateral Trade Negotiations (MTN), the then existing specific duty rate of 1.0625¢ per pound was converted to an ad valorem rate of 5.1 percent. This duty was reduced during the MTN to 4 percent, which subsequently was reduced further to 3.5 percent as a result of bilateral negotiations with Mexico at the end of 1979. Although the Mexican Government did not put into place the concessions it had accepted in these negotiations, the U.S. Government nevertheless did not snapback the duty to 4 percent as it was entitled to do.

The current duty is the product of a compromise reached in 1980 that temporarily reduced the ad valorem duty from 3.5 percent to 3.0 percent but created a duty floor of 1.0625¢ per pound. The purpose of that legislation was simultaneously to provide price stability for lead consumers and to afford the U.S. primary lead industry an adequate safeguard against the damaging effects of low-priced imports.

The original bill passed by Congress covered the period from January 1, 1980 through June 30, 1983, and was extended by Congress in 1984 (sec. 175 of P.L. 98-573) through December 31, 1988. We believe that the legislation has worked well, benefitting both producers and consumers, and should be extended.

The U.S. industry has experienced a substantial contraction of capacity since 1980. Only two major primary lead producers -- Doe Run, which was formed in November 1986 as a joint venture of St. Joe Minerals Corporation and Homestake Mining Company, and ASARCO -- now operate. As a result of the industry's cost-cutting efforts and restructuring, the United States lead industry is internationally competitive. The United States has over one-quarter of the world's reserves of lead and has low-cost mines and efficient smelters.

However, global over-capacity has resulted from foreign governments encouraging and, in some instances, subsidizing mining and smelting operations. Canadian Government subsidies continue to be particularly important in this regard. The U.S. industry is vulnerable to injury from lead imports from foreign producers willing to export at any price in order to maintain their production and employment levels. No U.S. industry can compete with a foreign government that subsidizes to gain or preserve market share.

The extension of this provision will aid both the domestic producers and the domestic consumers of primary lead by contributing to the stability of price and supply in the primary lead market. During periods of relatively high lead prices, the reduction in the *ad valorem* rate reduces the duty cost for consumers, while the specific rate duty floor assists the domestic producers when lead prices are relatively low and the domestic industry is, thus, vulnerable to cyclical pressures. Extending the provision for at least a four-year period will also help contribute to stability of price and supply as a lesser period of time would create some uncertainty in the market.

The U.S. primary lead producers support the extension of the temporary duty provision on unwrought lead as provided in H.R. 4299 and in S. 2266 introduced by Congressman Daub and Senator Danforth, respectively.

H.R. 4303

Regarding the rates of duty on bone chinaware

Before the

U.S. House of Representatives

Committee on Ways and Means

Subcommittee on Trade

In the Matter of H.R. 4303 100th Congress, 2nd Session A PROPOSAL TO INCREASE THE DUTIES ON BONE CHINA	Bone China, Classified in TSUS Item 533.54

COMMENTS IN OPPOSITION TO H.R. 4303 OF IMPORTERS OF BONE CHINA FROM THE UNITED KINGDOM AND CONTINENTAL EUROPE

These comments are presented pursuant to invitation of the House Ways and Means Subcommittee on Trade, set forth in Subcommittee Release No. 19 of April 27, 1988, on behalf of the Associated British Ceramics Importers, Inc. and Importers of West German Ceramic Ware, trading in Bone China from the United Kingdom, West Germany and other European countries. Copies of the Subcommittee release, of H.R. 4303, and of the appropriate page of the Tariff Schedule of the United States, setting forth TSUS Item 533.54, are attached as appendices A, B, and C respectively.

Summary

The importers of Bone China from the United Kingdom and Continental Europe oppose H.R. 4303 which would increase the duties on Bone China over many times their present level.

H.R. 4303 Would Destroy The Market For Quality Bone China From The United Kingdom And Continental Europe.

H.R. 4303 proposes to raise the duties on Bone China under TSUS Item 533.54 from the current level of 8% *ad valorem* to a level initially set at 35% *ad valorem* and decreasing over a period of six years to a "final" duty rate of 26% *ad valorem*. Thus, the present duty rate would be more than quadrupled, and the "final" rate to take effect after six years would be more than triple the present level. For high-quality, high-priced Bone China from the United Kingdom and Continental Europe such a duty rate would be insurmountable and would in effect destroy the market for this traditional product which has been imported into the United States for more than a century. Quality Bone China from the United Kingdom and Continental Europe is a distinct product serving a very specific market. It is clear that a prohibitive duty as that proposed in H.R. 4303 would have the effect of an embargo.

H.R. 4303 Would Deprive Americans Of A Fair And Reasonable Choice

Underlying American trade law and trade policy -- and forming a basis for American participation in international trade agreements -- is the strong presumption that the market and the consumer should have a fair and reasonable choice of products, unless there are compelling grounds of public economic policy to outweigh such choice. H.R. 4303 would deprive Americans of a traditional choice without any sound reason. Other than destroying the Bone China market for the historic supplier, there is no assurance, not even support for speculation, that the intended beneficiary can develop the technological know-how or meet the specifications necessary to Bone China production, or if he could, whether this would suffice to assure the success of entrance into the U.S. market. Examples in other fine china fields, where American producers have been able to prosper, indicate that high tariffs which distort and weaken competition within the marketplace and which reduce consumer choice, are neither necessary nor appropriate to launch product lines. Exorbitant duties, therefore, should not be employed as a protectionist device.

H.R. 4303 Would Destroy American Jobs

Imports from the United Kingdom and Continental Europe, accounting for two thirds of all Bone China imports into the United States by value, account for hundreds of American jobs in the importing, handling, selling and distribution of Bone China. Importers, warehouse, distribution, and sales employees in the chinaware market relating to imports from the United Kingdom and Continental Europe number in the thousands and a significant share, especially in the case of imports from the United Kingdom, relate to Bone China imports. Therefore, the establishment of production in the United States, even if successful, at the cost of destruction of imports, in all likelihood will lose more jobs than would be gained.

H.R. 4303 Would Abrogate Five Decades of Negotiated Tariff Concessions

In the 1930 Trade Act, tariffs on practically all chinaware were at a level of approximately 70%.[1] Trade was very limited.[2] Negotiations began in the 1930s[3], reducing duty rates for some products, and a series of negotiations under Post-WWII

1/ Sec. 212 Tariff Act of 1930 set the duty rates for china and porcelain tableware at 60% ad val. + 10¢/doz. for plain white ware, and at 70% ad val. + 10¢/doz. for decorated ware.

2/ In 1939, U.S. imports of Bone China totaled 69,000 dozen pieces valued at $371,000, thereof $362,000 from the principal supplier, the United Kingdom.

3/ However, the recognition of Bone China as distinct from non-bone porcelain, and the application of special duty rates had already been a part of U.S. law in the Tariff Act of 1922.

trade laws in 1945, 1948, 1962, 1974 and 1979 provided further reductions. As a result of these negotiations and a number of Government reviews and actions on different types of china- and earthenware, a sophisticated tariff structure evolved, and became law through successive enactments by the Congress in which the trading rights of importers and principal suppliers were recognized, and by which specific commodity groups were established within the industry, in line with the different chinaware products and their markets.

Bone China, originally developed in the United Kingdom by addition of up to 40% bone meal to standard clays used in chinaware production, is a product of distinct character and appeal and has been recognized as a separate trade commodity in the Tariff Schedule of the United States for at least 66 years. During that time a number of trade negotiations recognized the principal supplier position of the United Kingdom and duties were reduced on a "bargained-for" basis to the present level of 8% ad valorem. The present duty rate has been "bound" under the General Agreement on Tariffs and Trade through the multilateral trade negotiation process. Therefore, legislative increase of duties on Bone China would constitute an "unbinding" of the agreed-upon rate, would violate United States commitments under GATT and would require the payment by the United States of compensation or would entail retaliation by the principal supplier(s) and adversely affected countries.

H.R. 4303 Would Treat Bone China as Low-Value Chinaware and Would Defeat its Own Purpose

The proposed initial duty rate of 35% ad valorem, which appears to draw a parallel to the highest duties in the china- and earthenware schedules, is intended to decrease to a "final" rate of 26% ad valorem, the rate which now applies to low-value china-and earthenware. The equation of high-quality Bone China from the United Kingdom and West Germany with low-value pottery would be entirely improper. The cost of manufacture of Bone China and the quality of this product from Europe commands high-average values and is sold in markets completely different from low-priced chinaware. To remove the well-established distinction between Bone China and other china- and earthenware products, long recognized in the law, without reason can only serve to eliminate the quality and attractiveness of Bone China as a distinct product.

H.R. 4303 would defeat its own announced purpose, to wit, development of production of Bone China in the United States, because destruction of the distinction between Bone China and ordinary pottery would destroy the market for this product. The intended beneficiary of H.R. 4303 would "win" a market that has been destroyed by the meaningless equation of Bone China with low-value ware.

U.S. Imports of Bone China from Europe Are Not Disruptive and Are Traded Fairly

On introduction of H.R. 4303 it was suggested that duty increases are needed to counteract alleged unfair trade practices attributable to imports.[4] With respect to Bone China imports from the United Kingdom and Continental Europe, there can be no such allegation. Bone China from Europe is at the top of the high quality line of china products, and traditionally has been priced at the top of the chinaware line. While there is some limited degree of competition with high-quality porcelain, the

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4/ See CONGRESSIONAL RECORD of March 31, 1988, pp E 927/928.

distinctive character of European Bone China has placed this product essentially in a class by itself. Pricing is both fair and consistently at the very top end of the scale, and without exception ranges at or above the values of fine china offered by producers in the United States. U.S. manufacturers of fine china have been successful in establishing porcelain production and have succeeded in meeting national and international competition. Moreover, total imports of Bone China from the United Kingdom and Continental Europe have actually declined in both number and value in 1987, as compared to the two prior years. Therefore, there is no reason for burdening international trade in Bone China with prohibitive duties.

Duty Increases Are Not A Proper Means for The Establishment Of A Manufacturing Facility.

The proposed duty increase in H.R. 4303 is intended to give one specific producer in the United States a sheltered and noncompetitive base from which to enter the Bone China market. Such a use of duty increases not only violates GATT, it is also an improper use of "remedial" customs tariff manipulation and highly questionable from an antitrust viewpoint.

Under the American system of trade remedies and permissible duty adjustments, tariffs may be increased only on the basis of specified statutory procedures, for example under the "escape clause", where increased imports are injurious to a U.S. industry, or in the case of dumped or subsidized goods. In the present context, it is important to note that the "prevention of establishment" of an industry is considered as a proper ground for the imposition of supplemental duties only in cases of unfair trade actions, e.g. in dumping or subsidies cases. In the case of fairly traded imports the question of establishment of an industry is not a proper criterion which would permit duty increases. While it might be argued that the Legislative Branch is not subject to the mandates given in the trade laws to the Administration, it would be completely against the system and reason of American law to destroy an industry and a market, to abrogate negotiated duty bindings, and to violate a series of international agreements for the dubious benefit of a company enjoying its own traditional production and markets just because it harbors apparent envy of the traditional markets of other suppliers.

Enactment Of H.R. 4303 Would Entail Retaliation And Disproportionate Rancor.

Bone China is one of the most distinctive products principally produced and exported from the United Kingdom. While other countries have now taken up the production of Bone China, this particular product is still considered by many in the United States and certainly by the producers in the United Kingdom as a quintessential British product. To deprive one of America's staunchest trading partners and allies of trade in this product would have consequences far beyond the dollar value of trade in this product from Great Britain (currently about $34 million per year). Producers in the United Kingdom, and in other European countries producing similar high-value Bone China would regard the enactment of this legislation as a calculated affront to those who invented Bone China, and most other modern porcelain production technology. Therefore, H.R. 4303 would have a chilling effect on trade relations between the United Kingdom, West Germany, other European countries and the United States.

Conclusion

Ceramic ware, porcelain, earthenware, and particularly Bone China have evolved into commodities which are close to - and sometimes actually are - a form of art. The carefully crafted distinctions in the law have evolved over more than five decades of international trade negotiations. To take one specific, high-value, traditional product and, in effect, throw it into a residual low-value category will only serve to destroy a market which has been created on the basis of negotiated and bound tariff concessions. H.R. 4303 proposes bad law for the wrong reasons. It should not be enacted.

Respectfully submitted,
Conrad for
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James H. Lundquist } Of Counsel
Gunter von Conrad }

May 23, 1988

U.S. IMPORTS OF BONE CHINA WARE FROM THE UNITED KINGDOM CONTINENTAL EUROPE, JAPAN & ALL COUNTRIES IN DOZEN PIECES & DOLLAR VALUE

TSUS Item 533.54

	1985		1986		1987	
COUNTRY	DOZEN PCS.	VALUE	DOZEN PCS.	VALUE	DOZEN PCS.	VALUE
United Kingdom	556,764	32,904,207	487,087	32,972,553	524,665	33,244,645
Continental Europe	29,598	1,697,501	133,327	2,069,314	19,441	1,498,013
Japan	316,868	11,466,781	419,920	15,059,245	594,066	19,683,628
All Other Countries	66,816	637,527	61,935	583,551	195,676	1,472,258
TOTAL	970,046	46,706,016	1,102,269	50,684,663	1,333,848	55,898,544

Source: Official Statistics, U.S. Department of Commerce, Series IM-146

Prepared by Barnes, Richardson & Colburn, Washington, D.C., May 23, 1988

BEFORE THE
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

COMMENTS FOR THE RECORD
SUBMITTED BY SIEGEL, MANDELL & DAVIDSON, P.C.
ON BEHALF OF THE BRADFORD EXCHANGE, LTD.
IN OPPOSITION TO H.R. 4303

The following comments are submitted in opposition to H.R. 4303, a bill regarding the rates of duty on bone chinaware, on behalf of The Bradford Exchange, Ltd., located and having its principal place of business at 9333 Milwaukee Avenue, Niles, Illinois 60648.

The Bradford Exchange, Ltd. is primarily engaged in the marketing of collector's plates, which are limited edition reproductions of artwork on porcelain or other plate materials. Many of the collector's plates marketed by our client are created from imported plate blanks which are decorated in the United States after importation and prior to sale in the United States market. For some of these plates, The Bradford Exchange, Ltd. imports the blank plates and coordinates with domestic sources for artwork, creation of ceramic pigments and transfers, manufacture of packaging material and printed literature, and firing the artwork on the plates. The Bradford Exchange, Ltd. then markets the finished collector's plates through direct mail and through numerous independently operated domestic retailers. The Bradford Exchange, Ltd. also acts as a broker for sale of out-of-issue collector's plates.

H.R. 4303 concerns the column 1 rate of duty assessed on imported bone chinaware classified in item 533.54 of the Tariff Schedules of the United States. The bill would steeply increase the applicable ad valorem rate of duty from 8 percent to 35 percent, effective 15 days after enactment, with staged reductions of the rate each year thereafter until a final rate of 26 percent is reached. For the reasons set forth below, the proposed legislation is highly undesirable and should not be enacted.

The proposed duty increase would have a serious negative impact on The Bradford Exchange, Ltd. and its employees, limiting or destroying our client's ability to participate in the production and marketing of collector's plates made of imported bone chinaware. Collector's plates are price-sensitive, and the more than fourfold proposed duty increase would greatly increase the retail cost of such articles, thereby severely reducing their marketability. Moreover, numerous other individuals and domestic companies and their employees, who would be involved in the labor-intensive production of the finished plates and of the art, pigments and other decorative materials used in their manufacture, would be similarly affected.

Manifestly, the proposed duty increase would also adversely affect purchasers of bone chinaware throughout the United States, by increasing the wholesale and retail price of imported bone chinaware and sharply curtailing the market for such products. The increased cost of these products and the attendant reduction or elimination of price competition and consumer choice, which would result after imposition of the proposed duty increase, would be clearly counterproductive to the Nation's ongoing battle against inflation.

Whereas the negative effect which the proposed legislation would have on domestic companies and their employees, on consumers and on the economy as a whole is easily identifiable, it is more difficult to identify the domestic industry which merits the tariff protection afforded by this bill. Moreover, even if a particular domestic industry's claim of need for relief from injurious import practices or competition were meritorious, H.R. 4303 bypasses well-conceived administrative and judicial mechanisms established by Congress for safeguarding United States industries. These mechanisms include the anti-dumping and countervailing duty laws and the laws providing for relief caused by import competition under the Trade Act of 1974 (§201 *et seq*.).

Finally, the proposal to increase the duty applicable to bone chinaware is in express derogation of international obligations of the United States set forth in the schedule of tariff reductions which were negotiated in good faith at the Tokyo Round of the MTN [Geneva (1979) Protocol to the General Agreement on Tariffs and Trade (GATT)]. The column 1 rate of duty under item 533.54, TSUS, was established as a bound duty rate under the GATT negotiations. Consequently, by virtue of GATT article XXIII, passage of H.R. 4303 would require that the United States grant offsetting tariff concessions with respect to other products or pay compensation to its trading partners for loss of market access or else face reciprocal withdrawal of trade concessions from GATT member nations. In light of the recent improvement in the United States trade deficit, adoption of such blatently protectionist legislation would be highly inappropriate and counterproductive.

In conclusion, the proposed increase in duty on bone chinaware will adversely affect domestic companies, workers and consumers, is economically undesirable, is inconsistent with the spirit and intent of existing trade laws, and is violative of the international obligations of the United States. Under these circumstances the proposed legislation can only be viewed as highly controversial, and we urge the Committee to decide against its adoption.

SIEGEL, MANDELL & DAVIDSON, P.C.
Washington, D.C.

Comments of the
Committee of
American Dinnerware Importers
in Opposition to
H.R. 4303

The below listed companies, all U.S. importers of dinnerware from sources around the world, submit these comments in opposition to H.R. 4303, a bill to substantially increase U.S. import duties on bone china dinnerware classified for customs purposes in item 533.54, Tariff Schedules of the United States (TSUS). This bill was introduced on March 30, 1988, by Congressman William F. Goodling. By notice dated April 27, 1988, the Subcommittee on Trade, Committee on Ways and Means, requested that comments from all interested parties be filed by May 23, 1988.

Passage of H.R. 4303 would:

- unilaterally abrogate, in violation of the General Agreement on Tariffs and Trade (GATT), bound duty-rate concessions negotiated by the United States during the Tokyo Round Multilateral Trade Negotiations;
- jeopardize hard won concessions for U.S. exporters obtained by our negotiators from other countries during these negotiations;
- make certain the prospect of international retaliation against important American exports;
- circumvent established U.S. trade law procedures, consistent with GATT, designed to provide trade remedies when justified;
- impose blatantly protectionist tariffs without any showing of need;
- artificially inflate prices to American consumers on a product which is not made in the United States in sufficient quantities to fill demand.

The Existing U.S. Duty Rate Reflects a Bound Concession Negotiated by the United States

The existing U.S. duty rate of 8% *ad valorem* applicable to imported bone china classified in item 533.54, TSUS, is the final staged rate agreed to by the United States during the Tokyo Round Multilateral Trade Negotiations. During those negotiations, the United States made solemn commitments to reduce its duties on a number of products as the *quid pro quo* for comparable reductions by other countries in their tariffs as applicable to exported American products. These reciprocal bindings as to rate reductions were accepted by the Congress and enacted to the extent necessary as part of the Trade Agreements Act of 1979.

Bound Duty Rate Concessions Should Not Be Simply Legislated Away

Bound rate reductions should not be merely legislated away unilaterally. To do so would attack the very fabric of our international commitments through GATT, produce a damaging ripple effect throughout the complex structure of multilateral concessions negotiated in the Tokyo Round, and seriously jeopardize the currently developing U.S. export boom.

The GATT is a complex arrangement through which the signatory countries have agreed to conduct their trade with one another under mutually beneficial rules aimed at maximizing trade benefits for all. These rules provide certainty and predictability as well. To violate these rules is to plant the seeds of chaos for the interdependant world trading system.

If the bone china bound tariff concessions negotiated in the Tokyo Round are unilaterally abrogated by the U.S., other countries will have to withdraw the concessions they have granted or impose comparable restriction on other U.S. exports producing a wave of new restrictions world-wide. The U.S. export industries which, because of the shifts in the dollar *vis-a-vis* other currencies, recently have begun to rapidly expand their sales abroad, could see their gains nullified.

There Are Statutorily Prescribed Ways To Deal With Adverse Domestic Effects of Duty Rate Concessions If That Becomes Necessary

If the United States has good reasons to renege on its Tokyo Round commitments, then U.S. law provides means through which that result may legitimately be obtained. Section 201 of the Trade Act of 1974 as amended establishes the primary mechanism for obtaining review and additional import restrictions in such cases.

Absent compensation from the United States, retaliation is a certainty if H.R. 4303 is enacted. The European Community, the principal beneficiary of the Tokyo Round concessions on bone china, has already so informed the U.S. Trade Representative. Bone china has a long history of reciprocal tariff concessions going back at least to the "Dillon Round" of the early 1960's. Great Britain, where bone china was developed, has historically placed great importance on obtaining U.S. tariff concessions on bone china. In return, Great Britain has given concessions to a wide range of American exports as part of the negotiated concession packages which have consistently included bone china.

The Domestic Industry Cannot Produce Bone China In Amounts Adequate to Fill Demand

Bone china historically has been primarily an imported product in the U.S. market, with only one or two U.S. companies even trying to make this specialized ware here. U.S. producers have never been able produce bone china in quantities adequate to fill U.S. demand, and, in any event, have been highly profitable in their efforts. The United States International Trade Commission (and its predecessor Tariff Commission) has consistently found the U.S. bone china manufacturers ineligible for increased import protection largely because they were so profitable.

The Consumer Interest Will Not Be Served by Passage of H.R. 4303

No company currently produces bone china in the U. S. A single company has proposed opening a new factory for the production of bone china if it gets the arbitrary protectionist duty rates contained in H.R. 4303. Nevertheless, this bill proposes to arbitrarily inflate already high retail prices for bone china, thereby penalizing the American consumer.

If this producer, now saying it will attempt to manufacture bone china here, ever does achieve that goal, it could not possibly fill U.S. demand for this product. If this producer needs protection at some juncture, U.S. law provides means, sanctioned by our international commitments, through which help can be obtained. At the moment, however, all that is known is that one company is going to make an effort some time in the future to supply some portion of U.S. needs. Meanwhile, that company seeks to arbitrarily inflate already high U.S. consumer prices for bone china simply to have its private interests served. Such blatant protectionism has no place in U.S. trade policy given the current U.S. need for increased export earnings. There is no justification shown for this extraordinary proposal, and the Congress should summarily refuse to act affirmatively on H.R. 4303.

Respectfully Submitted,

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STATEMENT OF JAPAN POTTERY EXPORTERS' ASSOCIATION AND THE JAPAN POTTERY MANUFACTURERS' FEDERATION IN OPPOSITION TO H.R. 4303

HR 4303, introduced on March 30, 1988 by Congressman Goodling (R-PA) on behalf of the Pfaltzgraff Company of York, Pennsylvania, would increase the rate of duty provided for imports of bone chinaware under Column 1 of item 533.54 of the Tariff Schedules of the United States (19 U.S.C. 1202). Under the bill, the tariff rate on item 533.54 would be increased from the existing rate of eight percent _ad valorem_ to 35 percent _ad valorem_ during the first year following enactment. The tariff rate would then be reduced in each succeeding year in staged amounts until it reaches a level of 26 percent _ad valorem_ during the seventh year.

HR 4303 should be rejected for the following reasons:

- HR 4303 Would Revoke A Bound Concession Rate in Violation of GATT

HR 4303 would unilaterally abrogate a bound concession rate negotiated during the Tokyo Round of the Multilateral Trade Negotiations (MTN), in clear violation of the General Agreement on Tariffs and Trade (GATT). The tariff rate on bone china was negotiated downward from a pre-Tokyo Round level of 17.5 percent _ad valorem_ to eight percent _ad valorem_. In providing concessions on this tariff item during the Tokyo Round, the U.S. in return received concessions from its trading partners. HR 4303 not only would represent a full withdrawal of the concessions made on this item during the Tokyo Round but also would enact a rate far in excess of the pre-Tokyo Round level.

- U.S. Exporters Would Face Virtually Certain Retaliation From Our Trading Partners

At a minimum, the U.S. Government would be required to pay compensation representing the difference between the current rate and the 26 percent final rate proposed by HR 4303. As a result, HR 4303 would place the United States in the position of having to provide nearly _twice_ the amount of compensation that it originally received in return for the Tokyo Round concessions on this item. Moreover, the virtual certainty that our trading partners would reciprocate by withdrawing concessions they granted the U.S. would create new barriers for U.S. exports -- just at a time when U.S. exporters have increasingly benefited from more favorable foreign currency exchange rates.

- The Stated Rationale for HR 4303 is Illogical

The attempt to justify a higher rate for household bone chinaware by reference to the rate for institutional chinaware is illogical. Institutional china has historically been treated differently in the Tariff Schedules from household chinaware and has for many years carried a substantially higher rate of duty.

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By breaking out institutional bone china from the general bone chinaware tariff category, the Tokyo Round negotiations simply sought to treat all institutional chinaware consistently. There was no suggestion that bone china and institutional china should be placed on the same footing.

- There is Little or No Domestic Production or Supply of Bone Chinaware

Even if Pfaltzgraff carries out its announced intention of entering into the production and sale of bone chinaware, there is no showing that its product would compete directly with imported bone chinaware or be produced in quantities adequate to satisfy U.S. demand. Demand for bone chinaware in the U.S. market has traditionally been supplied almost solely by imports because of their distinct styling and quality. In recognition of this fact, the U.S. International Trade Commission -- and its predecessor, the U.S. Tariff Commission -- have consistently recommended that no import relief be provided to producers of bone chinaware.

- HR 4303 Is Inflationary and Anti-Consumer

The proposed increases in the tariff rate would almost certainly be passed along to consumers in their entirety. Thus, the primary effect of this bill will be inflationary and anti-consumer without any offsetting benefit to a U.S. industry, even if the Pfaltzgraff Company follows through on plans to produce and market this product in any significant volume.

- Existing Trade Remedies Already Provide Relief for True Injury

If the Pfaltzgraff Company is truly facing economic difficulty -- which we submit it is not and will not be in the future -- the proper channel for redress of its difficulties is the "Import Relief Provision" (Section 201) of the Trade Act of 1974, as amended or other U.S. trade law provisions. Clearly, Congress in designing a framework of trade laws to provide aggrieved U.S. industries an opportunity to obtain temporary import relief did not contemplate such industries making a unilateral appeal for the legislation of higher tariffs. If Pfaltzgraff believes import relief is necessary, it should have to prove its case through one of the established trade laws and not be given a free ride by the Congress.

COMMENTS OF THE PFALTZGRAFF COMPANY

Pursuant to the request of the Subcommitee on Trade for written comments from interested parties on the miscellaneous tariff bills, the Pfaltzgraff Company of York, Pennsylvania, hereby submits comments in support of H.R. 4303, to increase the rates of duty on bone chinaware. In introducing this legislation, Congressman William F. Goodling stated that the purpose of this proposed tariff increase is to permit an infant U.S. industry to enter the bone chinaware market in the United States. As the U.S. manufacturer that has made the decision to produce and sell bone chinaware in the United States, the Pfaltzgraff Company emphasizes the major impact that this tariff increase will have in ensuring the success of Pfaltzgraff's efforts and, accordingly, strongly supports passage of this legislation.

At present in the United States, the entire market for bone chinaware is supplied by foreign producers. One U.S. company, Lenox, is active in this market but only to the extent of decorating bone chinaware plates that are imported from abroad. No U.S. company currently manufactures and sells bone chinaware plates in the United States.

The Pfaltzgraff Company has made the decision to attempt to change the status quo by establishing U.S. manufacturing operations for the production of bone chinaware. In making this decision, Pfaltzgraff is trying to reverse an unfortunate downward spiral that has been underway for 40 years in the ceramic dinnerware industry in this country. The past 40 years have seen a continual diminishing of ceramic dinnerware production in the United States. Numerous ceramic dinnerware producers have been forced to lay off workers and reduce production significantly, while others have had to close down completely, due to severe import competition.

The Pfaltzgraff Company has been a domestic manufacturer of ceramic products since the early 1800s and has manufactured dinnerware and accessory items made of earthenware for several decades. As a domestic dinnerware manufacturer, Pfaltzgraff has developed extensive familiarity with the U.S. marketplace for all dinnerware products. Pfaltzgraff has a national distribution network and established customers for ceramic dinnerware who turn to Pfaltzgraff for quality and reliability. Pfaltzgraff's manufacturing facilities are modern and efficient. For these reasons, Pfaltzgraff is one of the few producers of earthen dinnerware that has continued to survive as a viable company in the United States at a time when low-priced imports have decimated other U.S. dinnerware producers.

Pfaltzgraff's attempt to establish U.S. operations producing bone chinaware is a first step toward turning around the trend of declining U.S. production by establishing domestic operations in a U.S. market segment currently 100-percent dominated by imports. If Pfaltzgraff is successful in its efforts and proves that a U.S. dinnerware company can be competitive in the domestic bone chinaware market with imports, other U.S. companies might well follow this initiative in establishing U.S. operations for bone chinaware production.

The International Trade Commission's records indicate that there was some production of bone chinaware in the United States in the 1960s and 1970s. See Certain Ceramic Tableware, USITC Pub. 766 at A-6 (April 1976). Apparently that U.S. production proved noncompetitive, and has since been replaced by foreign sources. The last five years, however, have seen a significant growth in demand for bone chinaware in the United States, with total imports increasing from 666,000 dozen pieces in 1982 to 1,334,000 dozen pieces in 1987. Thus, it appears there is a viable and growing U.S. market for bone chinaware and more opportunity for domestic companies to manufacture bone chinaware, if they can get a toehold in the import-dominated market.

Pfaltzgraff is currently producing bone chinaware at its facility in Pennsylvania, although it has not yet begun the sale of these goods. This initial production effort has required substantial capital investment, and significant additional expenditures will be required by Pfaltzgraff in marketing the product as a new entrant. This bone chinaware production, however, has already resulted in the creation of American jobs in an industry that has not existed for years. Pfaltzgraff anticipates that, if its business is successful, potential resulting employment could number in the hundreds.

While Pfaltzgraff firmly believes that it can be competitive with the imported goods in terms of quality and customer satisfaction, the low prices at which the imported bone chinaware is sold raise concerns as to the ability of this infant industry operation to become established. The purpose of the tariff increase sought is to give Pfaltzgraff the opportunity to gain a foothold in its home market as it enters into competition with the imports.

The problem posed by the low prices of the imported bone chinaware should not be underestimated. In 1987, Japan was the single largest exporting country of bone chinaware to the United States, accounting for almost 600,000 dozen pieces, or 45 percent of all imports. The average unit values of the Japanese bone chinaware imports in 1987 were roughly $33 per dozen, a decline from the average unit values of $36 per dozen on Japanese bone chinaware imports two years earlier. Import values of bone chinaware from Taiwan, which surged to a record level of 128,000 dozen pieces in 1987, had an average unit value of only $3.66 per dozen. At these levels, most of the bone chinaware imports from the Far East are being imported at levels below Pfaltzgraff's anticipated cost of production.

The low prices on the imports are particularly disturbing when recent exchange rate fluctuations are taken into account. The value of the yen vis-a-vis the dollar has risen dramatically over the last three years, from ¥ 238.47/$1 U.S. to ¥ 144.60/$1 U.S., an increase of 39 percent. One would expect to see a concomitant rise in prices in the United States to reflect the exchange rate change. To the contrary, the average unit values of the Japanese bone chinaware imports declined between 1985 and 1987, further exacerbating the pricing problems faced by a new entrant to the U.S. market.

Nor are the Japanese producers the only threat to Pfaltzgraff's efforts to establish a U.S. bone chinaware industry. The United Kingdom accounts for the second largest volume of bone chinaware exports to the United States after Japan, with roughly 524,000 dozen pieces exported to the United States in 1987. The British producers have a strong, historical presence in the U.S. bone chinaware market, with name recognition and an established customer base for bone chinaware sales. Given that Pfaltzgraff will be a new entrant in the bone chinaware market, competition posed by these established British producers will be severe.

Assistance is needed, therefore, to permit the one U.S. company endeavoring to enter its own marketplace to compete with foreign goods that currently dominate that market. The only reasonable means of ensuring that the already established foreign competitors do not preclude Pfaltzgraff from entering its home market is by requiring those foreign producers to pay a higher duty rate on importation. The duty rate that is proposed in H.R. 4303, while a significant increase from the current level applicable to bone chinaware, is in-line with the tariffs applied to other imported dinnerware.

The legislation proposed by Congressman Goodling would raise the current tariff on bone chinaware of 8 percent ad valorem to an immediate level of 35 percent, which would be reduced in stages over a period of seven years to result in a permanent tariff of 26 percent. These proposed tariff rates reflect the level needed by Pfaltzgraff to ensure its ability to compete with the imports. These proposed rates are also equivalent to the levels currently in effect on institutional chinaware, including bone chinaware and other fine chinaware.

First, the average unit value of all bone chinaware imports last year was $42 per dozen pieces, with much of the dinnerware from the Far East, in particular, at values well below this average. When Pfaltzgraff is forced to compete with importing nations selling at such very low levels, an 8 percent import duty is simply insufficient to permit Pfaltzgraff to recover its costs plus a reasonable allowance for profit. A significant duty increase on the order proposed by Congressman Goodling is necessary to permit competition with such low prices.

Second, the 35 percent duty rate proposed is reasonable given the history of the duty rate applicable to bone chinaware. In 1947, when the original duty rates were established under the General Agreements on Tariffs and Trade, a 35 percent ad valorem duty (but not less than 5 cents/dozen and 30 percent ad valorem) was applied to the category for tableware, kitchenware and table and kitchen utensils, containing 25 percent or more calcined bone, the classification for bone chinaware. As the tariff schedules were developed and refined, numerous subdivisions for ceramic tableware and kitchenware products evolved. By 1978, bone chinaware was classified under TSUS item number 533.4100, and was dutiable at a rate of 17.5 percent ad valorem.

As a result of multinational negotiations conducted in 1979, TSUS number 533.41 was subdivided into two parts, which were renumbered as items 533.52 and 533.54 in the Tariff Schedules. Item 533.52 encompassed hotel or restaurant ware of china, including bone china, and was subject to a duty of 47 percent ad valorem in 1980, which has been successively reduced to its present level of 35 percent ad valorem. TSUS item number 533.54 encompassed household ware of bone china, and was subject to a rate of

16.3 percent *ad valorem* in 1980, from which it has been successively reduced to its present level of 8 percent *ad valorem*.

Thus, the current tariff schedules reflect a disparity in duty rates applicable to bone chinaware, with substantial duties on bone chinaware for institutional uses and low duties on household bone chinaware. Such a discrepancy might have been warranted at a time when there was little, if any, U.S. production of bone chinaware for sale to the household trade. Given Pfaltzgraff's attempt to reenter this market, however, such a significant discrepancy in duty rates is unreasonable. Indeed, by imposing a significantly higher tariff on institutional bone chinaware than on household bone chinaware, the U.S. law is presently operating to encourage increased competition in the household segment of the U.S. bone chinaware market. By raising the duty on household bone chinaware to a level equivalent with institutional bone chinaware, the effects of import competition on the household segment should be diminished.

Moreover, a significant disparity in duty rates also exists between the respective duty rates applicable to low and high-value non-bone chinaware sold to the household trade. The dinnerware category for household non-bone chinaware is divided into two parts, with low-value chinaware subject to a duty rate of 26 percent *ad valorem* and high-value chinaware subject to a duty rate of 8 percent *ad valorem*. Because bone chinaware is not subdivided into high- and low-value segments, all bone chinaware imports, including those at the very low average unit values identified above, are subject to the 8 percent *ad valorem* duty. An increase of the bone chinaware tariff to 35 percent, which would be phased down to 26 percent over a period of seven years, would eliminate this disparity. Because Pfaltzgraff anticipates that the low prices of the bone chinaware imports will continue to pose a significant competitive problem for many years in the future, 26 percent is a reasonable level to result as the permanent tariff on household bone chinaware.

Although there have not been many legislated tariff increases, precedent exists for such increases when the need is present. For example, in 1980 Congress imposed a special customs duty on the importation of fuel ethanol (TSUS 901.50). This legislated tariff increase was in response to industry requests to ensure that a federal excise tax exemption previously adopted would encourage the development of a *domestic* ethanol industry, which had begun production just two years earlier. Congress raised the import duty on ethanol, therefore, in large part to protect an infant industry in the United States. Thus, while this type of action may be somewhat exceptional, when the need arises, as here, to permit an American industry to enter its home market, Congress should not hesitate to pass such legislation.

Pfaltzgraff has made a commitment to serve the U.S. market for bone chinaware in the same, competent fashion in which it has served the U.S. market for ceramic products for more than a century. The tariff rate applied to bone chinaware will have a significant effect on whether Pfaltzgraff's efforts to establish U.S. operations in this market segment are successful. Pfaltzgraff urges passage of H.R. 4303 to provide it with the best chance possible of establishing this new U.S. industry.

H.R. 4313

To amend the Appendix to the Tariff Schedules of the United States to suspend the duties on certain bicycle parts

Before the
U.S. House of Representatives
Committee on Ways and Means
Subcommittee on Trade

STATEMENT OF THE

BICYCLE MANUFACTURERS ASSOCIATION OF AMERICA, INC.

IN SUPPORT OF H.R. 4313,

A BILL TO AMEND THE APPENDIX TO THE TARIFF SCHEDULES OF THE UNITED STATES TO SUSPEND THE DUTIES ON CERTAIN BICYCLE PARTS

This statement is submitted on behalf of the Bicycle Manufacturers Association of America, Inc. ("BMA"), a nonprofit, voluntary trade association of three domestic manufacturers (Huffy Corporation, Murray Ohio Manufacturing Company and Roadmaster Corporation) who manufacture more than 80 percent of the bicycles produced in the United States. BMA also has 13 associate members who supply parts and components for bicycles. A list of BMA's members is attached as Appendix 1.

BMA strongly supports H.R. 4313, the bill introduced by Representative Bob McEwen on March 30, 1988 that would suspend the regular customs duties on a number of bicycle components. Indeed, Representative McEwen introduced the legislation at the request of Huffy Corporation, a BMA member with its headquarters and bicycle manufacturing facility based in Dayton and Celina, Ohio, respectively. A division of Huffy, Raleigh Cycle Company of America, also manufactures bicycles in a facility in Kent, Washington. Huffy and the remaining members of BMA believe that H.R. 4313 will, like the many other bills that have temporarily suspended the duties on certain bicycle components since 1971, make a valuable contribution to the international competitiveness of the U.S. bicycle industry.

Since the introduction of H.R. 4313, BMA has been apprised of the need to modify the proposed statutory language in certain minor respects in order to avoid an adverse competitive impact on U.S. producers of parts that compete, to some degree, with those covered by the legislation. BMA supports these proposed changes, which will be discussed in more detail below, and urges the Subcommittee to incorporate them in the bill during mark-up.

Summary of H.R. 4313

As currently framed, H.R. 4313 would suspend, through the end of 1992, the regular customs duties on four bicycle components: "aluminum alloy micro-adjust bicycle seatposts," "aluminum alloy bicycle handlebar stems," "bicycle handlebar stem rotor assemblies," and "quick release hubs for bicycles." In general, these components are used in higher-specification bicycles that tend to be sold through small, independent bicycle dealers and through mail-order houses, rather than through mass merchant retail stores. The components in question and the bicycles in which they are incorporated tend to be sold at the higher end of the manufacturer's price spectrum.

By the express terms of the legislation, the seatposts and handlebar stems covered by H.R. 4313 are fabricated from "aluminum alloy." As a practical commercial reality, this is also true of the quick release hubs provided for in the legislation. 1/ The metal in question consists primarily of forged aluminum alloyed with relatively small amounts of various other metals, including copper, silicon, magnesium, zinc, nickel, or tin. Aluminum in its pure form is too soft to be used in these applications; when alloyed with even small amounts of other metals, however, aluminum becomes quite hard and strong.

1/ As noted below, BMA believes it appropriate to modify the language of the quick release hub provision to expressly limit [illegible] coverage to aluminum alloy quick release hubs.

At the present time, aluminum alloy — often referred to in the industry simply as "alloy" — components are the principal alternative to bicycle components made of carbon steel and various steel alloys, including so-called "chro-moly" (i.e., chrome/molybdenum) steel and stainless steel. Of these, carbon steel is certainly the heaviest and least expensive. Stainless steel and some of the sophisticated steel alloys can be lighter than aluminum alloy, but their greater expense generally prohibits their use in all but the most expensive, higher specification bicycles. Aluminum alloy is therefore the material of choice for many of the components used in moderately-priced, higher specification bicycles.

While aluminum alloy components commonly have a dull or slightly textured finish, they can be highly polished and indistinguishable from chrome-plated steel or chro-moly steel to the naked eye. Moreover, both alloy and steel components can be (and frequently are) painted, thereby obscuring the surface of the metal itself. Aluminum alloy composition can, however, easily be confirmed by placing a magnet on the surface of the component. Aluminum alloy is the only metal currently used for bicycle componentry that is non-ferrous and therefore not susceptible to magnetic attraction.

The three aluminum alloy components covered by H.R. 4313 — micro-adjust seatposts, handlebar stems, and quick release hubs — are among the more costly individual components used in a bicycle. As its name suggests, the seat post (sometimes called a "seat pillar") is a post inserted into the tube of the bicycle frame known as the "seat tube" onto which the bicycle seat or saddle is secured. The "micro-adjust" seatposts covered by the legislation are distinguished by a clamp at the top of the post that attaches to metal rails running along the bottom of the saddle from the back to its tip. The seat post clamp can be adjusted with an allen wrench or similar device to allow precise adjustment of the tilt and fore/aft position of the saddle. The height of the saddle, in turn, can be adjusted by a clamp (frequently operated with a quick release lever) that is separate from the micro-adjust seatpost and attached to the seat tube of the frame. Several alloy micro-adjust seatposts are depicted in Exhibit 1.

The bicycle handlebar stem performs an analogous function with respect to the bicycle's handlebars — that is, it secures the handlebars to the frame of the bicycle, in this case by insertion into the "head tube" of the frame. Several representative alloy handlebar stems are depicted in Exhibit 2. The stem is more or less in the shape of an inverted "L". The end of the base of the "L" terminates in a cylindrical clamp, secured by some sort of fastener (e.g., a binder bolt) that facilitates attachment of the stem to the handlebar. The angle of the stem will vary with the style of the bicycle. 2/ The handlebar stem is secured to the head tube of the bicycle frame by a long "expander bolt" running from the top of the vertical section of the stem to the very bottom of the vertical stem cylinder, where it is joined with a wedge nut or angled expander nut which allow the stem to be secured to the head tube.

A bicycle hub can be described as a flanged cylinder. The flanged ends of the hub act as the central anchoring point for the spokes of the bicycle wheel, while the cylindrical body, packed with bearings, encloses the axle for each wheel. In a traditional hub, the axle is secured to the front fork or the rear dropout of the bicycle with lock nuts on both sides. With quick release hubs, the traditional axle is replaced with a hollow axle capable of receiving a spring-operated mechanism (sometimes called a "skewer") ending in two nuts that can be quickly secured to or removed from the fork or dropout with the simple flick of a lever connected to one of the bolts. Most quick release hubs sold in the United States have aluminum alloy hub bodies and quick release levers. Examples of quick release hubs are shown in Exhibit 3.

The final component covered by H.R. 4313 — the handlebar stem rotor assembly — is a specialized component used exclusively with "freestyle BMX" bicycles. Pictures of the rotor assembly and a freestyle BMX bicycle equipped with one are attached as Exhibit 4. The rotor assembly consists of a vertical metal sleeve around which two connected metal donut-shaped discs move, both vertically (i.e., along the axis of the sleeve) and in independent rotation around the sleeve. The purpose of the rotor assembly is to allow the freestyle rider to spin the handlebar of the bicycle completely around (i.e., 360 degrees) without tangling the caliper brake cables secured to both the handlebars and the bicycle frame. The rotor assembly facilitates this stunt in two ways. First, the cable for the front caliper brake is routed through a hollow handlebar stem through the vertical sleeve of the rotor and down to the front caliper brake through

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2/ The handlebar stems for some "BMX"-type bicycles and the increasingly popular "all-terrain bicycles" or "mountain bikes" may consist of separate vertical and horizontal pieces, and the part of the stem extending horizontally to the handlebars may actually consist of two extensions in a "V" design.

the head tube of the frame. Second, use of the rear brake is facilitated by attaching the cable from the brake lever to the upper disc of the rotor and the cable running from the rear caliper brake to the lower disc of the rotor. When the rider activates the brake lever, pulling the upper section of the brake cable taut, the two donut-like discs of the rotor assembly are pulled upward along the rotor sleeve, transferring the tension to the lower section of the brake cable and activating the brake.

Benefits of the Bill

Congress first suspended the regular customs duties on various bicycle parts in 1971. Subsequent renewals of and additions to this duty suspension legislation have occurred four times since then, in 1974, 1977, 1980 and 1983, and the currently-pending omnibus bill (H.R. 3) contains provisions extending the last of these temporary suspensions. Each of the six Congresses that has considered bicycle part duty suspension legislation has recognized that these suspensions are necessary to remedy an unfair tariff bias against domestic manufacturers of bicycles. Most imported bicycles were, and continue to be, dutiable at a lower rate than most bicycle parts. This anomaly, if uncorrected by duty suspension legislation, enables foreign bicycle manufacturers to assemble bicycles abroad with foreign bicycle parts and import the complete product (including the component parts) into the United States, subject to the lower duty rate imposed on bicycles. In contrast, U.S. manufacturers of bicycles must first import certain components necessary to complete the manufacture of a bicycle at the higher *ad valorem* duty rate imposed on the bicycle parts.

The alloy seatposts, handlebar stems, and quick release hubs covered by H.R. 4313 are a case in point. These components are most commonly used on lightweight racing-style bicycles, which, if imported, bear a duty rate of only 5.5 percent *ad valorem*. Each of the components in question, by contrast, bears a duty rate of 10 percent.[3] Thus, U.S. bicycle manufacturers are forced to pay an *ad valorem* duty on these components almost twice the level of that paid by importers of complete bicycles. H.R. 4313 would eliminate this tariff disadvantage.

The enactment of duty suspension legislation generally and bicycle part duty suspension legislation in particular has generally been limited to products that are not produced in commercial quantities in the United States. This is certainly true of at least some of the components covered by H.R. 4313. The handlebar stem rotor assembly was developed in the United States (by American Cycle Systems of City of Industry, California) but has been manufactured solely in Taiwan and Japan. There are a number of U.S. manufacturers of steel handlebar stems, seatposts and hubs, but none of these companies are capable of producing these components using aluminum alloy. With the modifications to the legislation that are described below, these companies have indicated that they would have no objection to the suspension of duties on aluminum alloy handlebar stems, micro-adjust seatposts and quick release hubs.

Since the introduction of H.R. 4313, BMA has learned that a single U.S. company — American Classic Equipment Co., Inc. — is reportedly manufacturing alloy seatposts and quick release hubs. The company reportedly claims to sell 15,000-20,000 alloy seatposts per year to three U.S. bicycle manufacturers — Cannondale, Trek, and Klein — and approximately 100,000 pair of quick release hubs annually to various U.S. wholesalers, who in turn sell them as replacement accessories. The company, which reportedly commenced operations in 1981, is said to have only 15 production workers.

BMA believes that it is inappropriate to comment at this time on the implications of this company's U.S. production activities on the seat post and quick release hub provisions in H.R. 4313. We understand that the U.S. Commerce Department intends to examine further the nature of American Classic Equipment's operations and its attitude toward the proposed legislation. Once that information is available, BMA will apprise the Subcommittee of its position regarding the appropriateness of modifying the seat post and quick release hub provisions.

Suggested Modifications to H.R. 4313

While BMA strongly supports the substance of H.R. 4313, it has received information since the introduction of the bill that it believes warrants modification of the language of proposed TSUS items 912.22 and 912.24. Specifically, certain U.S. producers of steel handlebar stems and hubs have asked that the wording of these two provisions be modified to insure that they will not suspend the duties on imported products directly competitive with their own. BMA appreciates this concern and believes that some slight changes in the language of proposed TSUS items 912.22 and 912.24 would be appropriate. Additionally, we have been advised by officials of the U.S. Customs Service that the cross-reference in currently proposed TSUS item 912.24 to regular TSUS items 732.38 and 732.41 should be eliminated, as all quick release hubs are classifiable under regular TSUS item 732.42. Taking all of these considerations into account, BMA recommends that proposed TSUS items 912.22 and 912.24 be modified to read as follows:

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[3] As indicated below, BMA believes that proposed TSUS item 912.24 should be modified to delete its cross references to regular TSUS items 732.38 and 732.41, inasmuch as these TSUS numbers — which bear duty rates of six percent — do not cover quick release hubs. The sole cross reference should be to regular TSUS item 732.42, which bears a duty rate of 10 percent *ad valorem*.

912.22	Bicycle handlebar stems wholly of aluminum alloy, valued over $2.15 (provided for in item 732.42, part 5C, schedule 7)	Free		No Change	On or before 12/31/92

* * *

912.24	Aluminum alloy bicycle hubs with a quick release, lever operated mechanism (provided for in item 732.42, part 5C, schedule 7)	Free		No Change	On or before 12/31/92

The phrase "wholly of aluminum alloy" in proposed TSUS item 912.22, as modified, is intended to exclude from the coverage of that item certain two-piece handlebar stems having an aluminum alloy head (i.e., horizontal extension) but a steel down tube (i.e., vertical extension). The use of this limiting phrase is not intended to limit the eligibility for duty-free treatment of stems composed solely of aluminum alloy, even if the incidental hardware used with the stem (e.g., the binder bolt and wedge nut) is made of steel or other materials.

Again, BMA believes that these changes accommodate the known concerns of U.S. bicycle component manufacturers regarding the scope of H.R. 4313. To the extent that other concerns are made known to the Subcommittee prior to its formal consideration of H.R. 4313, BMA would appreciate the opportunity to consult with Rep. McEwen, other congressional sponsors and the Subcommittee staff in order to respond to those concerns.

Conclusion

For the foregoing reasons, the Bicycle Manufacturers Association of America, Inc. respectfully urges the Subcommittee on Trade to take favorable action on H.R. 4313. With the modifications recommended herein, the bill will improve the international competitiveness of U.S. bicycle manufacturers without adversely affecting the interests of U.S. bicycle component manufacturers, as those interests have been articulated to date. BMA looks forward to consideration and passage of the legislation at the earliest practicable time.

Respectfully submitted,

Michael R. Kershow

THOMAS F. SHANNON
MICHAEL R. KERSHOW

Counsel to the Bicycle Manufacturers
Association of America, Inc.

Appendix 1

bma

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BICYCLE MANUFACTURERS ASSOCIATION OF AMERICA, INC.

MEMBER ROSTER

Huffy Corporation
P.O. Box 1204
Dayton, Ohio 45401
(513) 866-6251

Murray Ohio Manufacturing Company
Franklin Road
Brentwood, Tennessee 37027
(615) 373-6500

Roadmaster Corporation
P.O. Box 344
Olney, Illinois 62450
(618) 393-2991

ASSOCIATE MEMBER ROSTER

Dia-Compe, Inc.
Box 798
Fletcher, North Carolina 28732
(704) 684-3551

Excel International Group, Inc.
328 East Main Street
Barrington, Illinois 60010
(312) 382-1350

Fimecy
3 Rue Barra
Levallois-Perret, France 92036
758-13-93

Harris-Thomas Drop Forge Company
1400 East First Street
Dayton, Ohio 45403
(513) 253-3152

Hunt-Wilde Corporation
2835 Overpass Road
Tampa, Florida 33619
(813) 623-2461

Thun, Inc.
P.O. Box 3159
Clarksville, Tennessee 37040
(615) 552-4011

Huret Et Ses Fils
6 Avenue Felix Faure
92000 Nanterre, Paris, France
204-54-01

Persons-Majestic Manufacturing Co.
21-31 Hamilton Street
Monroeville, Ohio 44847
(419) 465-2504

Sate-Lite Manufacturing Company
6220-30 Gross Point Road
Niles, Illinois 60648
(312) 647-1515

Shimano American Corporation
1 Shimano Drive
Irvine, California 92718
(714) 951-5003

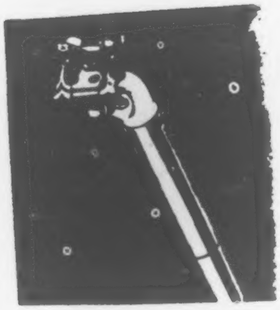
Sturmey-Archer of America, Inc.
1014 Carolina Drive
West Chicago, Illinois 60185
(312) 231-5150

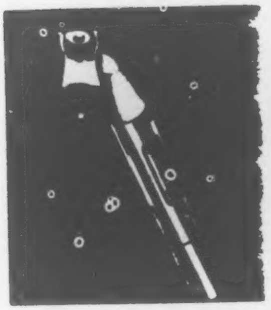
Union Sils, Van De Loo & Company
P.O. Box 1540, D-5758 Frondenberg
West Germany
0-23-73-75-31

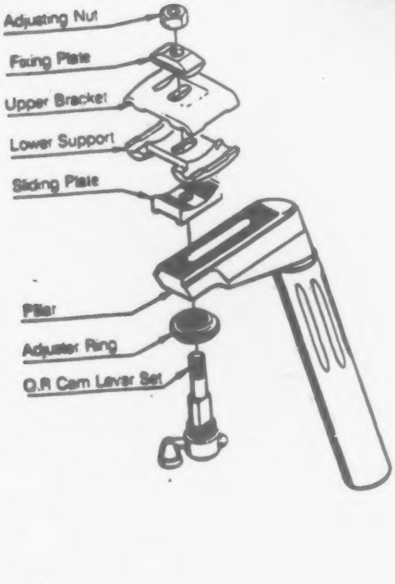
Wald Manufacturing Company, Inc.
P.O. Box 10
Maysville, Kentucky 41056
(606) 564-4078

EXHIBIT 1

NEW



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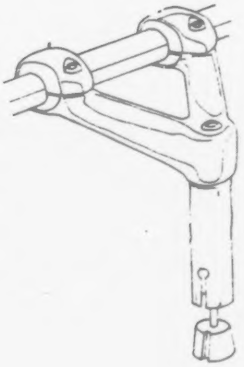
Fixing Plate
Upper Bracket
Lower Support
Sliding Plate
Pillar
Adjuster Ring
Q.R Cam Lever Set

EXHIBIT 2



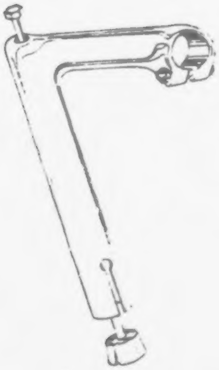


EXHIBIT 3

TYPICAL QUICK RELEASE MECHANISM

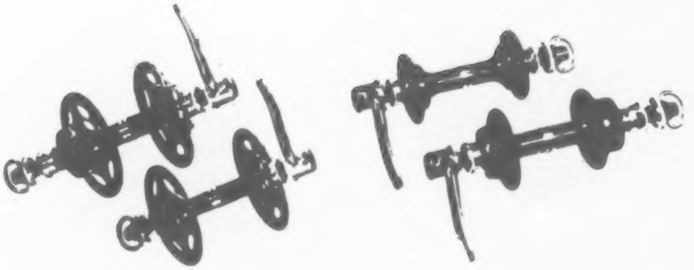
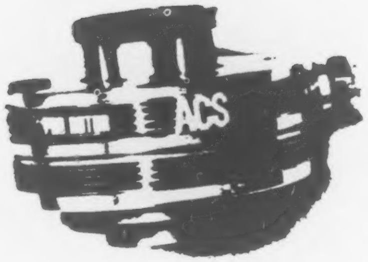


EXHIBIT 4

NEW GENERATION
PRO ROTOR™

IMPROVEMENT AND REFINEMENT OF THE WORLD'S MOST POPULAR DE-TANGLING DEVICE



The exciting Pro Rotor™ moves on ball bearings—so it rolls, not slides—in precision grooves which are made with high tech powder metallurgy, the ultimate in precision fabrication.

This vertical ball bearing sleeve virtually eliminates friction and allows smoother actuation no matter at what angle the bars are positioned.

A flexible, braided cable with unique swivel socket head mated with a delrin bushing adds easy mobility as well as longer cable life.

Unchanged is the single wire simplicity for easier installation, adjustment and maintenance.

The Pro Rotor™ is recommended for use with the ACS 45 or 55 stem. However, Rotors can be installed on most stems which have a steel shaft extending below the stem base a minimum of 3½".

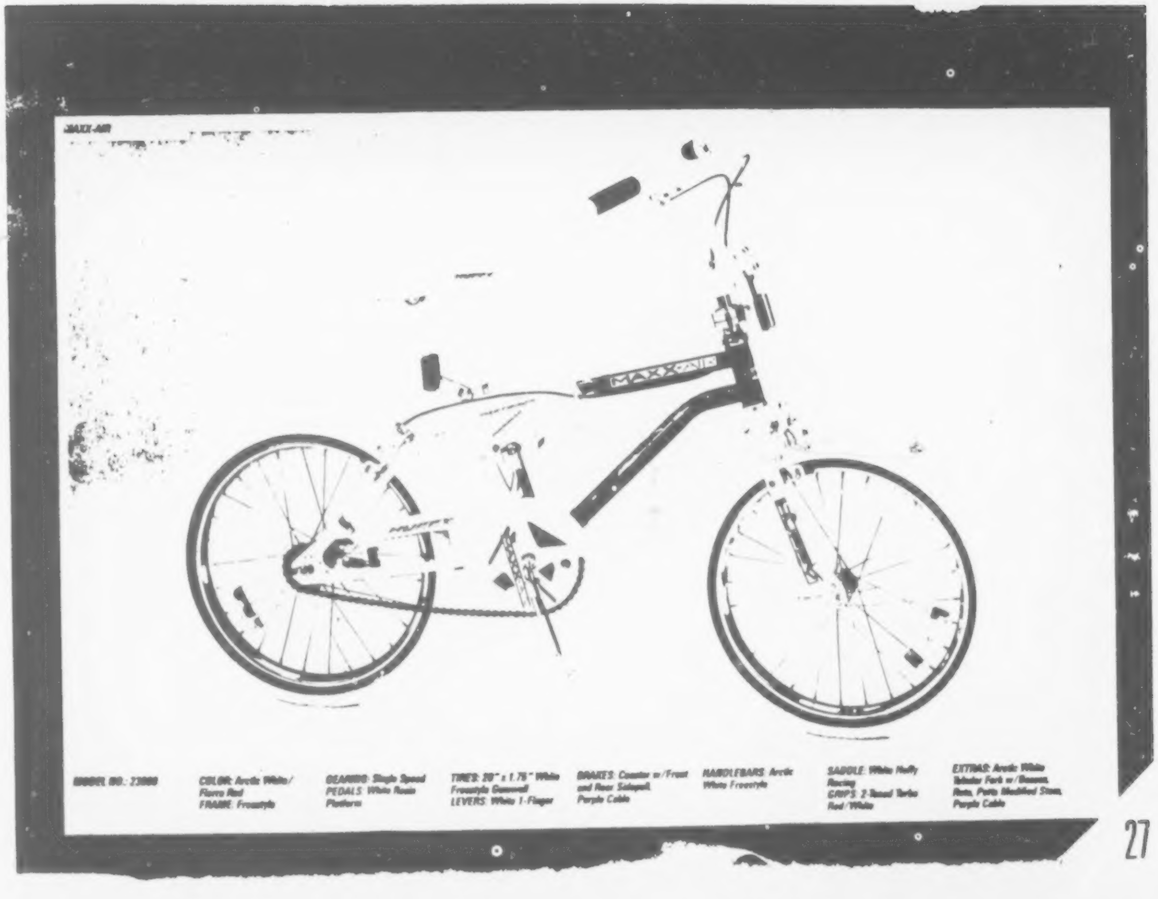
Used with an ACS Potts hollow stem bolt, the Pro Rotor™ mounts on the stem with the cable from the brake lever attached to the upper section and the rear brake cable attached to the lower section.

For all **ACS** parts,
contact your
distributor

ACS

American Cycle Systems
P.O. Box 2597
City of Industry, CA 91746

Freestyle for the committed.



MAXX-AIR

MODEL NO.: 23000

COLOR: Arctic White/
Fluoro Red
FRAME: Freestyle

GEARING: Single Speed
PEDALS: White Resin
Platform

TIRES: 20" x 1.75" White
Freestyle Gumwall
LEVERS: White 1-Finger

BRAKES: Coaster w/Front
and Rear Sidepull,
Purple Cable

HANDLEBARS: Arctic
White Freestyle

SADDLE: White Huffy
Racing
GRIPS: 2-Toned Turbo
Red/White

EXTRAS: Arctic White
Tubular Fork w/Bosses,
Rota, Pretty Modified Stem,
Purple Cable

27

Collier, Shannon, Rill & Scott
Attorneys-at-Law
1055 Thomas Jefferson Street, N. W.
Washington, D. C. 20007

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Thomas F. Shannon
James F. Rill
William W. Scott
David A. Hartquist
Richard S. Silverman
R. Timothy Columbus
Lauren R. Howard
Paul D. Cullen
Kathleen E. McDermott
Michael D. Sherman
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B. Michael Hodge
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J. Keith Ausbrook
Gerard P. Fox
Rosanne A. Hurwitz
Robin H. Beeckman
Anne M. Coffey

June 17, 1988

Robert J. Leonard, Esquire
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Re: H.R. 4313

Dear Mr. Leonard:

In a statement filed with the Committee on May 23, 1988, we indicated, on behalf of our client, the Bicycle Manufacturers Association of America, Inc. ("BMA"), strong support for H.R. 4313, a bill to amend the Appendix to the Tariff Schedules of the United States to suspend the duties on certain bicycle parts. Representative Bob McKuen had, in fact, introduced H.R. 4313 at the request of BMA and one of its members, Huffy Corporation.

As we indicated in our statement, we had obtained preliminary reports after the introduction of the legislation that there was, in fact, a U.S. company manufacturing two of the components covered by the duty suspension bill. We have since confirmed that the company in question, American Classic Equipment, does in fact produce aluminum alloy micro-adjust seat posts and aluminum alloy quick release hubs. While the company's production is not sufficient to meet the needs of the U.S. industry, it is significant, and we therefore believe that suspension of the regular duties on these two components would be inconsistent with the traditional justification for temporary duty suspension legislation (i.e., the absence of a domestic source of supply deserving of tariff protection).

For these reasons, we would ask that the Committee delete from H.R. 4313 the proposed TSUS items currently numbered 912.21 ("aluminum alloy micro-adjust bicycle seat posts") and 912.24 ("aluminum alloy bicycle hubs with a quick release, lever operated mechanism"). As far as we remain aware, there is no domestic production of the other two bicycle parts covered by the legislation (i.e., "bicycle handlebar stems wholly of aluminum alloy, valued over $2.15" and "bicycle handlebar stem rotor assemblies"), and BMA continues to look forward to the suspension of the regular duties on these items.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Michael R Kershow

MICHAEL R. KERSHOW

Counsel to the Bicycle Manufacturers
Association of America, Inc.

Statement on behalf of
Bicycle Wholesale Distributors Association
In Support of H.R. 4313

Before the Subcommittee on Trade
Committee on Ways and Means
U.S House of Representatives

May 23, 1988

H.R. 4313:

The Bicycle Wholesale Distributors Association (BWDA) is in support of H.R. 4313. This bill would suspend, until December 31, 1992 the duty on certain bicycle parts.

Submitted By:

Lewe B. Martin, Counsel for BWDA; Thompson, Hine and Flory; 1920 N Street, N.W; Washington, D.C.; (202) 331-8800.

BWDA Membership:

This organization is a nationwide trade association whose membership consists of approximately 45 wholesale distributor and 85 associate (supplier) members located in some 18 States and Puerto Rico. BWDA members manufacture and/or sell all kinds of bicycles, bicycle parts and accessories.

A list of the distributor members is included in Attachment A hereto.

Summary:

The BWDA submits this statement in support of H.R. 4313. This bill will allow U.S. producers of bicycles and replacement market suppliers to import, without duty, certain component parts of bicycles which are not produced on a commercial scale in the U.S. This duty suspension legislation is supported by BWDA because it makes U.S. produced bicycles more competitive with imported complete bicycles, as the statutory duty on the parts for which there will be a suspension is higher than the duty on most imported bicycles.

Further the BDWA believes this duty suspension to be noncontroversial as it is not aware that any domestic firm produces the following bicycle parts included in H.R. 4313:

1. Aluminum alloy micro-adjust bicycle seat posts;
2. Aluminum alloy bicycle handlebar stems;
3. Bicycle handlebar stem motor assemblies;
4. Quick release hubs for bicycles.

BWDA submits that no domestic producer would be adversely affected by the duty suspension.

ATTACHMENT A

Distributor Members
Bicycle Wholesale Distributors Association

Allied Cycle Distributors, Inc.
Waltham, MA 02254-0430

Arizona Bicycle Wholesale
Tempe, AZ 85281

F.A. Baker Co., Inc.
Maspeth, NY 11378

Bauer Cycle Supply Inc.
Minneapolis, MN 55401

Bike Brokers
N. Ft. Myers, FL 33903

Bike Rack Inc.
Hauppauge, NY 11787

John T. Bill Co.
Glendale, CA 91205

Bridgestone Cycle (U.S.A.), Inc.
San Leandro, CA 94577

Columbus Cycle
Columbus, OH 43216

Clayton Cycle Company
St. Louis, MO 63118

Cuthrell's Inc.
Norfolk, VA 23510

Crandall Hicks Company
Ashland, MA 01721

Cycles Peugeot, U.S.A. Inc.
555 Gotham Parkway

Denco Distributors Inc.
Bronx, NY 10451

Detroit Cycle Supply Co.
Detroit, MI 48201

District Cycle Supply Co., Inc.
Beltsville, MD 20705

Eastern Cycle Supply Co., Inc.
Worcester, MA 01603

T. Eki, Inc./Eki Cyclery
Honolulu, HI 96817

Everything Bicycles
Compton, CA 90020

Farber Cycle Inc.
Troy, MI 48084

Frank's Wholesale Distributor, Inc.
Phoenix, AR 85109

Fridrich Bicycle Inc.
Cleveland, OH 44113-3786

Gordon Cycle Supply Inc.
Cleveland, OH 44108

Hawaii Bicycle Supply Company
Waipahu, HI 96797

Harbor Distributors
Chicago, IL 60622

Robert D. Heaton Company
Freemont, CA 94536

Herbert L. Flake Co., Inc.
Houston, TX 77087

Howard W. Georger Co., Inc.
Buffalo, NY 14227

Island Cycle Supply Co.
Minneapolis, MN 55423

Hans Johnsen Company
Dallas, TX 75247

Leeworld Co., Inc.
Gardena, CA 90248

Robert M. Mashock Associates
Philadelphia, PA 19136

Merry Sales Co.
San Francisco, CA 94103

Miami Bicycle & Supply Co., Inc.
Miami, FL 33144

More Cycle Co., Inc.
Miami, FL 33166

Emilio Mulero Inc.
Caguas, Peurto Rico

North America Tradipex Cycles Inc.
Melville, NY 11747

Olympic Supply Co.
Milwaukee, WI 53218

Pacific Cycle Sales, Inc.
Yakima, WA 98907

Mel Pinto Imports, Inc.
Falls Church, VA 22042

Rite-Way Products Inc.
Brea, CA 92962

Schwinn Bicycle Co.
Chicago, IL 60639

Service Cycle Supply Corp.
Commack, NY 11725

West Coast Cycle Supply Co.
Carson, CA 90230

Western States Import Co., Inc.
Newburry Park, CA 91320

Wilson Bicycle Sales Inc.
Union City, CA 94587

Wisconsin Cycle Supply Co., Inc.
Sheboygan, WI 53081

WRITTEN STATEMENT OF WALD MANUFACTURING COMPANY, INC. REGARDING H.R. 4313

I. Introduction.

Wald Manufacturing Company, Inc. has manufactured bicycle parts since 1905. Since 1924, we have been located in Maysville, Kentucky. We are a small business in a rural community. Our operations, equipment and facilities are modern. Because our only business is bicycle parts, our company's survival and our employees' jobs are solely dependent on the survival of the domestic bicycle parts industry.

As a bicycle parts manufacturer, we are necessarily vitally interested in the continuance of the domestic bicycle manufacturing industry. These companies are our customers, and we necessarily feel the impact of any diminution of their market share through increased imports of finished bicycles.

On the other hand, we cannot afford to have bicycle parts which we manufacture imported duty free. Our own industry has been seriously threatened by the deluge of imports, typically from Japan, Korea, and Taiwan, which has decimated our own industry. Today there are many bicycle parts which no U.S. manufacturer produces and which therefore cannot be sourced domestically.

II. Historical support for duty suspension.

Because of the interrelationship between the health of our industry and the health of the bicycle manufacturing industry, historically we have supported duty suspension for any bicycle parts which cannot be sourced domestically. By this, we mean that we have supported duty suspension for bicycle parts which are not competitive with parts which are currently produced (or for which definite plans to begin production exist) in the United States. It is also for these reasons that our company and our industry have sought to exclude bicycle parts (unless re-exported) from the exemption from the customs laws otherwise available in a foreign trade zone. Such an exemption was enacted in Section 231(a) of P.L. 98-573, and was passed by both Houses as Section 1783 of H.R. 3, as reported (H. Rept. 100-576).

III. Wald opposes H.R. 4313 as introduced.

As introduced, H.R. 4313 would allow duty free importation of certain bicycle parts which are competitive with parts which we manufacture. Specifically, "aluminum alloy handlebar stems," if construed to include stems with aluminum alloy heads and steel pipes (down tubes), are competitive with Wald's all steel bicycle stems. Additionally, aluminum alloy handlebar stems which are constructed wholly of aluminum alloy are competitive with Wald's all steel stems priced at or under $2.15. Finally, "quick release hubs for bicycles" could be construed to include bicycle hubs which are competitive with Wald's single speed front wheel hubs.

IV. Wald supports H.R. 4313 if amended.

We have conveyed these concerns to the Bicycle Manufacturers Association and have been assured that they will seek an amendment to the language of H.R. 4313 to narrow the scope of items to be imported duty free so as to resolve our concerns. We also understand that the Bicycle Manufacturers Association has been made aware of the concerns of certain other domestic bicycle parts manufacturers and will attempt to negotiate statutory language which meets those concerns. If the Committee adopts these amendments, Wald will support H.R. 4313 as consistent with its historical support for duty free importation of bicycle parts which cannot be sourced domestically.

Specifically, as to resolving our concerns, we understand that the language describing items to be imported duty free under proposed TSUS item 912.22 would be amended from "aluminum alloy bicycle handlebar stems (provided for in item 732.42 part 5C, schedule 7)" to "bicycle handlebar stems wholly of aluminum alloy, valued over $2.15 (provided for in item 732.42 part 5C, schedule 7)" and the language of proposed TSUS item 912.24 would be amended from "quick release hubs for bicycles (provided for in items 732.38, 732.41 and 732.42, part 5C, schedule 7)" to "aluminum alloy bicycle hubs with a quick release, lever operated mechanism (provided for in items 732.38, 732.41 and 732.42, part 5C, schedule 7)."

V. Conclusion.

Both the bicycle parts industry and the bicycle industry have been severely adversely impacted by imports. The bicycle parts industry recognizes the bicycle industry's need for duty suspension in order to compete with bicycle imports and historically has supported duty suspension for designated bicycle parts which cannot be sourced domestically. As introduced, proposed TSUS items 912.22 and 912.24 of H.R. 4313 would allow importation of bicycle parts which are competitive with parts manufactured by Wald. Therefore, Wald opposes H.R. 4313 as introduced. If the Committee adopts the amendments set forth above which we understand have been proposed by the Bicycle Manufacturers Association, the category of parts which will be able to come in duty free under these TSUS proposed items will be narrowed to exclude parts which are competitive to Wald's domestically manufactured parts.

By: Carlton P. Pawsat
President, Wald Manufacturing
Company, Inc.
Fifth & Center Streets
P.O. Box 10
Maysville, Kentucky 41056
(606) 564-4078

H.R. 4316

To suspend until the close of December 31, 1990, the duty on sulfacholoropyridazine (technical)

No statements submitted.

H.R. 4337

To temporarily suspend the duty on high resolution cathode-ray tubes

STATEMENT ON BEHALF OF THE COMMITTEE TO PRESERVE AMERICAN COLOR TELEVISION

BEFORE THE SUBCOMMITTEE ON TRADE
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

This statement is submitted on behalf of the Committee to Preserve American Color Television ("COMPACT"), an unincorporated association made up of manufacturers in, and suppliers to, the domestic color television industry. COMPACT is also comprised of eleven labor organizations which represent the overwhelming number of workers in the domestic television industry, including workers engaged in the manufacture of materials, parts and subassemblies irrevocably destined for incorporation in television picture tubes, as well as workers engaged in the final assembly of color television picture tubes and finished color television receivers. The list of COMPACT members is attached to this statement (see Appendix A).

COMPACT vigorously opposes enactment of H.R. 4337, now before this Subcommittee. H.R. 4337 would suspend until December 31, 1991, the duty on high resolution cathode-ray tubes provided for in item 687.54, Tariff Schedules of the United States ("TSUS"). That duty is currently 6 percent ad valorem.

High resolution cathode-ray tubes are not specifically provided for in the current Tariff Schedules. Nor does the proposed legislation provide any criteria by which to distinguish a high resolution cathode-ray tube from any other cathode-ray tube currently provided for in item 687.54, TSUS. As such, the proposed duty suspension legislation is ambiguous and would open up potential loopholes by which importers of cathode-ray tubes could circumvent the payment of legitimate import duties.

This Subcommittee is quite familiar with the Tariff Schedule loophole exploited by importers to avoid the payment of legitimate duties on a related product — color television picture tubes. The loophole was directly attributable to ambiguities in the Tariff Schedules as they pertained to the separate classification of incomplete color television receivers and color television picture tubes. The Subcommittee acted aggressively to eliminate this loophole when it helped pass legislation to require that color television picture tubes not incorporated in complete television receivers be dutiable separately at the higher rate provided for color television picture tubes. That legislation was ultimately incorporated in the Omnibus Trade Bill. The Congress would be acting inconsistently were it to close a loophole involving one product, and then create another loophole involving a closely-related product. H.R. 4337 is ambiguous and unenforceable and should be rejected on those grounds.

More significantly, however, H.R. 4337 should be rejected because it will eliminate the tariff protection afforded domestic producers and workers involved in the production of high resolution cathode-ray tubes at a time when major technological breakthroughs are occurring in this area, particularly with respect to the use of high-resolution picture tubes in the manufacture of entertainment display devises, including color televisions. Such breakthroughs could result in substantial commercial opportunities for U.S. companies. Such opportunities, however, will be undermined if the entire U.S. market is exposed to uncontrolled foreign competition in the form of duty-free imports.

The domestic color television industry is especially sensitive to the implications of such competition, having lost significant market share in recent years to foreign companies who established their presence in the U.S. market by dumping, first, color televisions and, second, color television picture tubes. Many of those same foreign companies would be among the principal beneficiaries of a suspension of the duty on high resolution cathode-ray tubes.

The domestic color television industry is at a technological crossroads. Producers in this industry will be driven by developments in the transmission and/or propagation of video signals to develop and produce much larger, higher resolution picture tubes capable of displaying high-definition television signals. The demands that this technological evolution will impose on domestic producers in terms of research and development and capital investment will be substantial. For example, Zenith Electronics Corporation recently developed a "flat tension mask," high resolution tube that greatly enhances picture clarity, contrast, brightness, and color fidelity and that is virtually glare-free. Initially intended for use in computer display devices, the flat tension mask tube will eventually be used in entertainment television as well. It is our understanding that the development of this high resolution tube represented an expenditure of over $50 million. Moreover, because Zenith's financial picture has been so undercut by unfair foreign competition, the company was forced to finance the development of the "flat tension mask" technology entirely out of new borrowings.

With consumers of color televisions pressing for greater picture clarity, the stakes in the development of high resolution picture tubes, and their application to what is now termed "high-definition television" ("HTDV"), are enormous. Television Digest, a respected industry publication, recently estimated that the size of the market to install HDTV in 90 million U.S. households would be between $50-$100 billion (see Appendix B).

Certainly the Japanese are aware of this fact. It is estimated that Japanese producers have already invested $300 million in research and development of HDTV since 1970. At the forefront of this activity has been the development of high resolution cathode ray tubes capable of being adapted not only to traditional uses such as computer monitors, but also in connection with high-definition television.

The movement on the part of the Japanese toward higher resolution tubes is further reflected in Table 1. The Table, which tracks imports from Japan of cathode ray tubes since 1984, shows that, notwithstanding shrinking import volumes of such tubes, the average unit values rose significantly — roughly $20.00 each year, or approximately 138 percent over the four-year period. This trend reflects a shift in product mix toward costlier, higher resolution cathode-ray tubes.

In this highly competitive framework, in which technological and commercial breakthroughs will become the norm, it would be disruptive and counterproductive to distort the current environment by eliminating the protection upon which domestic producers of high resolution cathode-ray tubes have relied and will rely to justify the significant capital investment required to keep pace with technological developments, especially as they apply to HDTV. Under such circumstances, H.R. 4337 must be rejected.

Appendix A

MEMBERS OF THE
COMMITTEE TO PRESERVE AMERICAN COLOR TELEVISION

Allied Industrial Workers of America, International Union

American Flint Glass Workers Union of North America

Communications Workers of America

Corning Glass Works

Glass Bottle Blowers' Association of the United States and Canada

Independent Radionic Workers of America

Industrial Union Department, AFL-CIO

International Association of Machinists

International Brotherhood of Electrical Workers

International Union of Electronic, Electrical, Technical, Salaried and Machine Workers, AFL-CIO

Owens-Illinois, Inc.

United Furniture Workers of America

United Steelworkers of America

Wells-Gardner Electronics Corporation

Appendix B

TV DIGEST OCTOBER 5, 1987

Consumer Electronics

A Section of Television Digest with Consumer Electronics

MAJOR PUBLIC PUSH BEGINS FOR ADVANCED TV: Significant announcement by NBC, GE/RCA Consumer Electronics and Sarnoff Research Center on development of Advanced Compatible TV (ACTV) widescreen high-resolution system (see report in Broadcast/Cable section) coincides with public campaign to test and win support for high-definition TV (HDTV) and other transmission and reception modes of future.

At stake for consumer electronics industry is new TV boom of unprecedented dimensions. Whether or not future broadcast, cable or satellite systems are compatible with the 140 million or so existing sets, some 90 million TV homes will be candidates for new receivers, VCRs, etc. -- market that could run $50-$100 billion over the years.

Starting with technical seminar in Ottawa this week, proponents of ACTV say they plan to expose their system to as many members of public as possible, with Consumer Electronics Show under consideration as one vehicle. Public demonstrations of HDTV already are starting, with HBO, PBS, Canadian Dept. of Communications and Canadian Bcstg. Corp. planning 6-city exhibitions to sound out consumers' interest in improved systems and determine whether they're willing to pay high price for new TV sets to receive them. Consumer demos will be held in big Danbury Fair shopping mall in Conn., probably in N.Y.C., L.A. and Washington, D.C., area in next few weeks.

Displays will use HDTV sets, VCRs and other equipment on loan from Japan's NHK, will poll members of public, with results to be evaluated by research firm (HBO spokesman Alan Levy stressed that HBO's participation in project using NHK system shouldn't be considered endorsement of that system). National Cable TV Assn. (NCTA) has engineering subcommittee working on technical side of HDTV, while National Assn. of Bcstrs. (NAB) has authorized spending $700,000 to create Technology Center to work on HDTV.

Receiver manufacturers increasingly are becoming involved -- just about all West European set makers are active in Eureka project, first results of which were demonstrated recently in Berlin (TVD Sept 7 p3). In Japan, 24 TV and other equipment manufacturers are participating, along with broadcasters, in competition to develop best compatible enhanced-definition TV system (EDTV), with broadcasting to start in 1989 (see separate report this issue). In U.S., GE/RCA, Philips and others are involved.

With FCC conducting inquiry into future TV broadcast systems, congressional hearings scheduled for this week, demonstrations of HDTV by satellite being prepared, starting gun has been fired in race toward new type of TV. Participating are networks and stations, direct satellite broadcasting proponents, cable systems, and -- consciously or not -- everyone in TV receiver and VCR business. We'll keep you informed through both our Broadcast/Cable and Consumer Electronics sections.

TABLE 1

IMPORTS OF CATHODE RAY TUBES FROM JAPAN (TSUSA 687.5405)

	1984	1985	1986	1987
Quantity	741,496	477,134	379,864	302,880
Value ($)	33,923,142	30,171,333	32,856,730	33,087,789
Unit Value ($)	45.75	63.23	86.50	109.24

Source: U.S. Department of Commerce, IM 146.

RCA | Video Component and Display Division | Lancaster, PA 17604 | Telephone (717) 295-6000

RCA

The Honorable Dan Rostenkowski
Chairman, Committee on Ways and Means
House of Representatives
Washington, D.C. 20515

Dear Mr. Rostenkowski: June 10, 1988

We have been advised that a bill (HR 4337) has been introduced which would suspend the 6% duty on high-resolution picture tubes through 1991.

We strongly oppose this proposal for the following reasons:

1. It is difficult to discern the difference between a high-resolution picture tube import and a standard-resolution picture tube import. Dropping the tariff on high-resolution tubes may provide the opportunity for importers of TV picture tubes to bring their product in duty free.

2. Suspension of this product classification may encourage other action with regard to television tube imports.

3. The direction of television technology will require changes in the picture tube performance. What we consider high-resolution today, may very well be standard-resolution in the not too distant future. We believe that by 1991, or shortly thereafter, some TV picture tubes will contain masks with pitches similar to today's high-resolution mask product.

In summary, the technology gap between standard and high-resolution picture tubes is expected to gradually diminish over the next few years. We believe this will be driven by the television industry as it moves toward high-definition systems. Since there is already a significant difference in the tariff rate between standard-resolution tubes (15%) and high-resolution tubes (6%), we see no need to further reduce the tariff on high-resolution tubes. We are therefore opposed to any change that would eliminate or reduce the tariff of a color picture tube.

Sincerely,

R. K. Lorch

R. K. Lorch
Manager, Sales and Marketing
North America Tube Division
Thomson Consumer Electronics, Incorporated
New Holland Avenue
Lancaster, Pennsylvania 17604-3140

May 23, 1988

BEFORE THE
SUBCOMMITTEE ON TRADE
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

STATEMENT OF ZENITH ELECTRONICS CORPORATION OPPOSING H.R. 4337 TO TEMPORARILY SUSPEND THE DUTY ON HIGH-RESOLUTION CATHODE RAY TUBES

Zenith Electronics Corporation opposes H.R.4337. This bill appears to have been introduced based on the misconception that no high-resolution cathode ray tubes (CRT) are available in the United States today. Indeed, high-resolution CRTs are imported from the Far East; however, they also are manufactured in the United States. Suspension of duty on high-resolution CRT imports will have a significant negative impact on Zenith which is producing these CRTs.

Zenith has invested more than $50 million over the past several years to develop and manufacture a revolutionary new kind of high-resolution CRT, the "flat tension mask" tube. The company made that investment during a period of corporate losses. Now, just as sales of the new CRT (and computer monitors using the tube) are about to reach break-even levels, legislation such as this threatens to make Zenith less competitive yet again.

Zenith's flat tension mask is world-class technology, designed and built in the U.S. The CRT is manufactured at the company's color picture tube plant in Melrose Park, Ill. Zenith's "Flat Technology Monitor," the first to use the new CRT, is assembled at the company's Springfield, Mo., plant.

The flat tension mask CRT represents a breakthrough in display technology. It features a perfectly flat, specially coated faceplate that virtually eliminates glare and reflection. It offers significantly increased brightness, contrast and color fidelity than conventional high-resolution CRTs -- produced anywhere in the world.

The technical superiority of Zenith's patented flat tension mask tube commands a modest premium in the marketplace. However, if import duties on similar CRTs are suspended, price competition will no doubt intensify, making it even more difficult for Zenith to recoup its significant investment in this dramatic new American technology.

Zenith's high-resolution CRT technology also could very well play a major role in "high-definition television" or HDTV -- which some believe will be one of the next major breakthroughs in consumer electronics and display technology -- but not if the company is unable to invest in more research and development for future generations of such advanced display technologies.

Another especially disturbing result of suspending the duty on high-resolution CRTs (especially from the Far East) is its inconsistency with the General System of Preferences. This legislation would grant South Korea, for instance, so-called "developing-country status" again, contrary to new trade policy, at the expense of U.S. industry.

Suspending the duty on high-resolution CRT imports would be a serious mistake, one that would once again threaten a U.S. industry and a U.S. company's ability to remain competitive in an already volatile environment. Zenith strongly opposes H.R.4337 and urges the Committee to stop this damaging legislation.

Respectfully submitted,
ZENITH ELECTRONICS CORPORATION

Jerry K. Pearlman
Chairman and President
1000 Milwaukee Avenue
Glenview, Illinois 60025

May 23, 1988

H.R. 4347

For the relief of the State of Florida

May 18, 1988

Mr. Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Leonard:

This is in response to the Subcommittee on Trade, Committee on Ways and Means, request for written comments on H.R. 4347, a bill providing tariff relief for the State of Florida. Following are my comments for inclusion in the record.

H.R. 4347 permits the duty-free entry of bi-level rail passenger cars to be used for a new commuter rail service in Southeast Florida. The commuter rail service is scheduled to begin concurrent with a major reconstruction of Interstate Highway 95 (I-95). The highway reconstruction, expected to take several years to complete, will create significant traffic congestion in an already congested, highly urbanized transportation corridor. The new commuter rail service is one of several measures the State of Florida, Department of Transportation, will implement to mitigate the impact of the highway reconstruction project on Southeast Florida commuters.

The commuter rail service will operate on an existing rail corridor which parallels I-95. Rail freight and AMTRAK intercity passenger rail service already use the corridor. Thus, the commuter rail service represents a third major use of the rail corridor.

The rail corridor contains only a single-track rail line, complicating interface of freight, intercity and commuter rail services. Consequently, the Florida Department of Transportation sought high capacity, bi-level rail passenger cars for the commuter rail service to reduce train lengths and facilitate interface with other rail services and highway traffic as the corridor is crossed by many at-grade highway/rail intersections. The only rail equipment meeting these unique specifications are manufactured by a Canadian firm, Urban Transportation Development Corporation, Ltd. Comparable rail cars are not available from any source of supply in the United States.

H.R. 4347, which I requested to be introduced in the House of Representatives, provides the State of Florida relief from an 18% (approximately) import tariff. It is consistent with the general movement of tariff reduction between the United States and Canada and will result in a significant cost savings to the State of Florida. I, therefore, request favorable consideration of H.R. 4347 by the Subcommittee on Trade.

Should you need any additional information, please do not hesitate to contact me (904/488-6721).

Sincerely,

Kaye N. Henderson, Secretary
Florida Department of Transportation
Haydon Burns Building, MS 57
605 Suwannee Street
Tallahassee, Florida 32399-0450

Minnesota Association of Railroad Passengers
Post Office Box 375 Minneapolis MN 55440-0375

May 19, 1988

VIA FEDERAL EXPRESS

Robert J. Leonard, Esq.
Chief Counsel
Committee on Ways and Means
U. S. House of Representatives
Room 1102, Longworth House Office Building
Washington, D.C. 20515

Re: HR 4347

Dear Mr. Leonard:

We urge favorable action on HR 4347, providing tariff relief to the State of Florida for its acquisition of bilevel rail commuter cars from Canada.

We believe the federal government should encourage and facilitate state initiative as seen in Florida's state-funded rail commuter project, not penalize it with pointless and potentially disabling tariff barriers.

Passage of HR 4347 will:

- Serve a strong public interest reflected by an urgent request for this help by Florida D.O.T.
- Be an act of good faith by the U.S. in anticipation of the pending trade treaty with Canada, our most important trading partner.
- Have no adverse impact on U.S. jobs or businesses (there are no surviving U.S. rail passenger vehicle manufacturers).
- Preserve a North American railcar competitor to the many Japanese and European manufacturers.

Respectfully submitted,

MINNESOTA ASSOCIATION OF
RAILROAD PASSENGERS

Andrew C Selden

Andrew C. Selden,
President

The Minnesota Association of Railroad Passengers is devoted to the improvement of passenger train service in Minnesota. MinnARP is not affiliated with Amtrak, any other agency or organization. Dues are $5.00 per year. Additional contributions are needed and welcomed. Make checks payable to MinnARP and send to the above address.

STATEMENT OF THE HON. E. CLAY SHAW, JR.

STATEMENT ON TARIFF RELIEF BILL (H.R. 4347)

Mr. Chairman, I am pleased to submit this statement for the record in support of H.R. 4347, a bill to provide relief from payment of certain tariffs imposed on bi-level commuter rail cars being built in Canada by UTDC Corporation, the American subsidiary of a Canadian firm, under contract to the State of Florida Department of Transportation. This bill is co-sponsored by Representative Bill Lehman, Representative Tom Lewis, Representative Don Mica and Representative Larry Smith.

The Secretary of the Treasury would be authorized by H.R. 4347 to admit duty free those bi-level rail passenger cars classified under Item 690.15 of the Tariff Schedules of the United States (19 U.S.C. 1202) which are designed for, and for the use of, the State of Florida Department of Transportation. The tariff relief provided would apply only to those bi-level rail passenger cars which entered the United States after March 14, 1988 and before January 1, 1989. There are 18 rail passenger cars involved at a total contract price of about $18 million. The import tariff which would apply without relief would be about 18 percent, less the tariff value of the American content of the cars.

The bi-level commuter rail cars for which relief is being requested are being acquired as a part of the Tri-County Commuter Rail Project which, when operational, will serve Dade, Broward and Palm Beach Counties, Florida. This is a high priority public transportation project directly related to reconstruction of Interstate 95 and other major arterial highways in Southeast Florida. The State of Florida has committed $118 million to this project to insure that the public will have an alternative means of transportation in Southeast Florida while major North-South highways are undergoing reconstruction over the next several years.

Mr. Chairman, the procurement of the bi-level commuter rail cars by the State of Florida was the result of a lengthy search for a qualified and acceptable supplier. Unfortunately, there was no manufacturer in the United States which could meet the requirements for a bi-level high capacity rail passenger car for this service in the time frame required. Although assembly of the cars in the United States was investigated, the critical delivery schedule dictated that the commuter cars be assembled and delivered from the manufacturer's plant in Canada.

The situation then faced by the State of Florida was to procure the bi-level commuter rail cars from the only fully qualified supplier in North America or settle for something less than required. The latter was dismissed because the single-track rail line available for the commuter service also is used for freight and Amtrak rail passenger service. That fact and the large number of rail-highway grade crossings in the corridor dictated that the commuter passenger trains be short in length but high capacity in order to minimize interference with other rail line and corridor users.

In summary, Mr. Chairman, H.R. 4347 provides relief to the State of Florida from the import tariff of about 18 percent on the bi-level commuter rail cars being produced in Canada for the Tri-County Commuter Rail Project in Southeast Florida and imported prior to January 1, 1989. It will result in significant benefits for an important public transportation service, and is consistent with the pending proposal to eliminate all tariffs between the United States and Canada. Since there are now no U.S. producers of bi-level rail passenger cars, no U.S. manufacturers would be affected.

Thank you for this opportunity to submit comments for the record on the tariff relief bill.

Please call Mr. Peter Sperry at 225-3026 if you need any additional information.

TRI-COUNTY COMMUTER RAIL ORGANIZATION

Suite 331 • Mercede City Center
200 South Andrews Avenue • Fort Lauderdale, Florida 33301
Phone (305) 728-8445

Al Travasos, *Chairman*
Boca Raton City Councilman

Beverly B. Phillips, *Vice Chairman*
Dade County Commissioner

Ken Adams
Palm Beach County Commissioner

Bill Howard
Executive Director

Ed Kennedy
Broward County Commissioner

Clara Oesterle
Dade County Commissioner

Sylvia Poitier
Broward County Commissioner

May 18, 1988

Mr. Robert J. Leonard, Esq.
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
Room 1102 - Longworth House Office Building
Washington, DC 20515

Dear Mr. Leonard:

I write to you as the Executive Director of the Tri-County Commuter Rail Organization (TCRO), the organization formed in 1986 to plan and implement a new commuter rail system in the South Florida counties of Dade, Broward and Palm Beach. The area represented by this organization is one of the most rapidly growing in the United States and is greatly in need of commuter rail transportation to serve our expanding employment centers.

On behalf of the TCRO, I express to you our strongest support for H.R. 4347 calling for the duty-free admission of our new bi-level rail passenger cars into the United States. The primary reason for this strong support is that passage of the Bill will substantially benefit the cause of urban public transit in our service area by increasing the resources available to enhance the quality of our new commuter rail system.

In the summer of 1986, the TCRO and the State of Florida jointly selected these bi-level passenger railcars as the only vehicles that could be available on time with sufficient capacity to move our commuters prior to the forthcoming reconstruction of Interstate 95 in our area. The timely delivery of our bi-level cars will now enable us to deal with this challenge in an effective way.

The TCRO also believes that H.R. 4347 is sound since the duty involved is an antiquated one in the sense that it was originally designed to protect the U.S. based rail passenger car manufacturers which are no longer in business. Furthermore, the Bill is very consistent with the recent Free Trade Agreement between the U.S. and Canada which provides for the phasing out of such duties; our North American industrial capability in railcar manufacturing is aided by this Bill as well.

We all stand to benefit from the passage of H.R. 4347 and we urge its passage.

Sincerely,

William Howard
Executive Director

URPA

United Rail Passenger Alliance, Inc.

Almost Anything Is Possible In A Train ...
Paul Theroux

Western Regional Office
P.O. Box 2336
Oceanside, California 92054
(619) 757-3809

Mailing Address
P.O. Box 41045
Jacksonville, Florida 32203
(904) 388-4441

VIA FEDERAL EXPRESS

Mr. Robert J. Leonard, Esq., Chief Counsel
Committee on Ways and Means
U. S. House of Representatives
Room 1102 - Longworth HOB
Washington, DC 20515

May 19, 1988

SUBJ: H.R. 4347 - A Bill For the relief of the State of Florida

Dear Mr. Leonard:

Mr. Austin M. Coates, President, United Rail Passenger Alliance, Jacksonville, Florida, has asked me to correspond with you about H.R. 4347. I am pleased to do so.

The United Rail Passenger Alliance (URPA), a passenger railroad train 'think tank' and public policy institution, strongly supports and urges you to most strongly support H.R. 4347, permitting duty-free entry of Canadian manufactured bi-level rail cars into the United States. While the present petitioner is the State of Florida, the benefit is a national one. It is consistent with the new Canada-United States Free Trade Agreement as well.

Several additional considerations are relevant.

o The duty involved has outlived its usefulness. It was established to protect a domestic railcar manufacturing industry that doesn't exist today.

o The additional costs to the State of Florida are not justified. In fact, we think it is the obligation of the federal government to help states like Florida in matters like these.

o URPA strongly supports the existence of a North American railcar manufacturing capability that incorporates both the United States and Canada. There are only two such manufactures of railcars, two re-manufacturers of railcars and two builders of locomotives between the two countries. They need encouragement. A complete dependence on Asian and European manufacturers is not, in our judgement prudent. A long term continental manufacturing capability is at stake here as well as economical car purchase by Florida. URPA supports U.S. and Canadian manufacture first.

We most strongly support passage of H.R. 4347.

Very truly yours:

Byron A. Nordberg
Vice President
Government Relations

America's Foremost Railroad Passenger Organization

UTDC

THE URBAN TRANSPORTATION DEVELOPMENT DIVISION OF LAVALIN

UTDC CORPORATION
344 N. WOODWARD AVE.
SUITE 301
BIRMINGHAM, MICHIGAN 48011
TELEPHONE: (313) 642-6800
TELECOPIER: (313) 642-6951
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May 20, 1988

Robert J. Leonard, Esq.
Chief Counsel
Committee on Ways and Means
U. S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Re: H.R. 4347 - A Bill for the Relief of the State of Florida

Dear Mr. Leonard:

We appreciate the opportunity to submit comments on the above bill for the record. Our comments relate to the fact that the current duty provisions affecting the importation of the unpowered rail passenger cars for the Florida Tri-County Commuter Rail Project are antiquated and work against the public interest. These duty provisions were originally designed to protect the fully U.S. based rail passenger car industry comprising approximately three suppliers, not too many years ago. Operations of these U.S. based suppliers have been effectively terminated in each case. Current supply of rail passenger cars for the U.S. market currently originates largely in Canada, Europe and the Far East. UTDC serves as a large Canadian based supplier with our major manufacturing facility in Thunder Bay, Ontario. This North American facility was uniquely qualified to produce the Florida vehicles in terms of providing a start-up fleet of uniquely designed vehicles, with high capacity (double deck configuration), a revenue-proven record and availability for delivery to meet Florida's critical project requirements associated with the reconstruction of I-95.

The current high duty provision for unpowered rail passenger cars of this type simply adds another cost factor for public authorities to deal with when purchasing equipment of this nature, especially from strategically valuable North American sources of supply. This burden is even greater on public authorities in light of the Federal Government's policy of shifting much of the capital costs of new commuter rail passenger systems onto state and local agencies with locally derived funding sources.

We also find H.R. 4347 totally in line with the trend toward free trade between the United States and Canada.

For these reasons we urge passage of H.R. 4347 and view it as an excellent way to benefit transit patrons.

Sincerely,

Robert E Furniss

Robert E. Furniss
Senior Vice President
UTDC Corporation

H.R. 4350

To alter the tariff treatment of certain printed advertisements

No statements submitted.

H.R. 4374

To suspend for a 3-year period the duty on diphenolic acid

No statements submitted.

H.R. 4411

To reduce the duty on certain fabrics for use in making fire-protective garments for firefighters

THE AMERICAN TEXTILE

MANUFACTURERS INSTITUTE

These comments are submitted by the American Textile Manufacturers Institute (ATMI) on behalf of those of its member firms engaged in the manufacture and sale of wool-containing fabrics. ATMI's member firms account for more than 80 percent of the output of the domestic textile mill products industry and a substantial majority of domestic production of wool-containing fabrics.

ATMI is opposed to the enactment of H.R. 4411 as currently written because such enactment would injure domestic producers of fabric similar to and competitive with the fabric described in the body and title of the bill. The specified fabric, i.e. woven fabric of wool containing at least 35 percent by weight of polyamide fibers and for use in making fire-protective garments for firefighters, can be supplied by domestic manufacturers of wool fabric. American Textile firms possess considerable technology and know-how for the weaving of wool/man-made fiber blend fabrics and for the making of fire-retardant fabrics of all types. Furthermore, these firms work very closely in the matter of product development and innovation with domestic producers of polyamide fiber, which producers are the acknowledged world leaders in polyamide fiber technology. Thus, it is not necessary for users of the specified fabric to purchase same outside the United States in order to secure adequate supplies.

ATMI is further opposed to the enactment of H.R. 4411 out of concern for the feasibility of proper enforcement of its provisions. The bill provides substantial duty reduction and a new tariff line for fabric merely described as "Containing at least 35 percent by weight of polyamide fibers and for use in making fire-protective garments for firefighters." No description of the exact fiber content, weight, construction, finish or other physical parameters of this specialized product is offered. This affords the very real possibility that dishonest exporters and importers will seek to reap the benefits of this duty reduction by importing fabrics not truly intended for use as stipulated in the bill (i.e. for firefighters' garments) into the United States for other uses. In this connection, it should be noted that wool/nylon (polyamide) blend fabrics are very popular in a wide variety of apparel and home furnishings uses. Thus, the incentive to fraudulently obtain this substantial duty reduction is great. The U.S. Customs Service, whose resources are already severely strained, would, in ATMI's opinion, be unable to separate truth from fiction in this regard and a sizeable volume of fraudulent entries would thereby result, inflicting further injury on a sector of the domestic textile industry that has already been severely injured by imports.

It should be noted, furthermore, that H.R. 4411 departs from the rules and procedures of tariff nomenclature established by the U.S. International Trade Commission (USITC), the federal government agency of jurisdiction for the maintenance of the Tariff Schedules of the United States (TSUS). The USITC discourages descriptions of intended end use(s) as a basis of nomenclature for products set forth on a (five digit) tariff line or a (seven digit) statistical line within the TSUS. This general prohibition applies because the USITC believes that proper Customs enforcement and tariff collection is rendered quite difficult by end use descriptive terminology. As the preceding paragraph may show, ATMI shares this view.

For the reasons set forth herein, ATMI earnestly requests the House of Representatives not to enact H.R. 4411.

COMMENTS OF

BURLINGTON INDUSTRIES, INC.

H.R. 4411 would create a new tariff item for chiefly wool fabric valued at over $9/lb. and containing at least 35% by weight of polyamide (nylon, aramid, etc.) fibers, for use in making fire-protective garments for firefighters. This item would carry a duty of 10% ad valorem, or 5% ad valorem if eligible for importation under the U.S.-Israel Free Trade Agreement. In the absence of this special provision, this fabric would be included in a broader item covering chiefly wool fabric valued at over $9/lb., which is subject to a duty of 33% ad valorem, or 10% ad valorem if eligible for importation under the U.S.-Israel Free Trade Agreement.

Burlington Industries, Inc., a major U.S. producer of wool fabrics, endorses the comment of the American Textile Manufacturers' Institute and objects to H.R. 4411 on the following grounds:

1. The bill is presumably based on the representation that the product in question is not available from domestic sources. However, Burlington Industries, Inc., which not only is a major producer of wool and wool/manmade blended fabrics but also owns considerable technology relating to fire retardant fabric, has not been asked to supply this fabric. We would certainly be interested in having the opportunity to offer to supply it.

2. Presumably the provision is designed to cover a specific fabric to meet a particular need. However, as it is written, the provision covers any chiefly wool fabric containing 35% or more nylon (as well as aramid, etc.) intended for the end use of fire-protective apparel for firefighters. If the product this provision is intended to cover in fact turns out to be unavailable from U.S. sources, the provision should be written so narrowly as to cover only that particular product and no other.

For example, if in fact the target fabric is made with a particular type of yarn, and if for some reason this construction or an equivalent cannot be produced in the U.S., the provision should be limited to the particular type of nylon fiber actually required. Similarly, the provision should be specifically limited to fire-retardant fabrics of the specified composition (rather than only the end-use provision "for use in making fire-protective garments for firefighters"). The absence of such limitations could create an unintended, and highly undesirable, "loophole."

3. An end-use requirement such as "for use in making fire-protective garments for firefighters" is difficult to police and should be avoided. It would impose an additional burden on the already strained enforcement resources of the U.S. Customs Service.

4. We have learned informally that H.R. 4411 was introduced to accommodate imports of a particular fabric which is produced in Holland. If this is true, and if because of lack of U.S. availability a tariff reduction appears justified for this fabric, there would appear to be no justification for the provision reducing the tariff on this product if imported under the U.S.-Israel Free Trade Agreement.

For all these reasons, Burlington Industries believes that (1) the need for a tariff reduction has not been established, in that domestic suppliers may produce or may be available to produce this product, and (2) in the event that this product proves unavailable from U.S. sources, the provision is drafted much too broadly.

3330 W. Friendly Avenue
Greensboro, NC 27410
John D. Englar, Vice President,
General Counsel and Secretary

FOR IMMEDIATE RELEASE
WEDNESDAY, JUNE 1, 1988

SUBCOMMITTEE ON TRADE #20
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
1102 LONGWORTH HOUSE OFFICE BLDG.
WASHINGTON, D.C. 20515
TELEPHONE: (202) 225-3625

THE HONORABLE SAM M. GIBBONS (D., FLA.), CHAIRMAN, SUBCOMMITTEE ON TRADE, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, ANNOUNCES REQUEST FOR WRITTEN COMMENTS ON CERTAIN TARIFF AND TRADE BILLS

The Honorable Sam M. Gibbons (D., Fla.), Chairman of the Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, today announced that the Subcommittee is requesting written comments for the record from all interested parties on the miscellaneous tariff and trade bills listed below.

A determination regarding further scheduling of public hearings or other Subcommittee action on any of these bills will be made dependent on the Subcommittee's schedule.

The tariff and trade bills on which written testimony will be received are:

Duty Suspension Bills

H.R. 4395 (Mr. Wylie): To continue the suspension of duties on m-xylenediamine and 1,3-bis(aminomethyl)cyclohexane.

H.R. 4415 (Mr. Thomas of California): To extend until January 1, 1994, the existing suspension of duty on certain yttrium ores, materials and compounds.

H.R. 4500 (Mr. Mollohan): To suspend temporarily the duty on octadecyl isocyanate.

H.R. 4679 (Mr. Skaggs): To amend the Appendix to the Tariff Schedules of the United States to suspend the duties on certain infant nursery monitors and intercoms.

H.R. 4683 (Mr. Guarini): To suspend for 3 years the duty on ADC-6.

H.R. 4684 (Mr. Guarini): To suspend for 3 years the duty on Diflunisal.

H.R. 4696 (Mr. Dwyer of New Jersey): To suspend for 3 years the duty on Norfloxacin.

H.R. 4697 (Mr. Dwyer of New Jersey): To suspend for 3 years the duty on amiloride hydrochloride crude.

H.R. 4698 (Mr. Dwyer of New Jersey): To suspend for 3 years the duty on D-carboxamide.

Duty Reduction Bill

H.R. 4504 (Mr. Frenzel): Relating to the temporary tariff treatment of impact line printers.

Duty-Free Bills

H.R. 4493 (Mr. Archer): Relating to the tariff treatment of certain entries of digital processing units.

H.R. 4677 (Mr. Pickle): To treat tobacco grown in the United States and processed in a Caribbean Basin country as eligible for duty-free treatment.

Customs and Other Nontariff Matters Bills

H.R. 4521 (Mr. AuCoin): For the relief of tube forgings of America.

H.R. 4553 (Mr. Brennan, Ms. Snowe, and Mr. Studds): To enhance the enforcement of the laws relating to the conservation of the American lobster.

H.R. 4643 (Mr. Burton and Mr. Jacobs): For the relief of the Office of the Sheriff of Marion County, Indiana.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Persons submitting written comments should submit six (6) copies by the close of business Friday, June 17, 1988, to Robert J. Leonard, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Room 1102 Longworth House Office Building, Washington, D.C. 20515.

SEE FORMATTING REQUIREMENTS BELOW:

COMMITTEE ON WAYS AND MEANS FORMATTING REQUIREMENTS FOR PRINTING OF HEARING STATEMENTS, WRITTEN COMMENTS AND EXHIBITS

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will **not** be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be typed in single space on legal-size paper and may not exceed a total of 10 pages.
2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.
3. Statements must contain the name and capacity in which the witness will appear or, for written comments, the name and capacity of the person submitting the statement, as well as any clients or persons, or any organization for whom the witness appears or for whom the statement is submitted.
4. A supplemental sheet must accompany each statement listing the name, full address, a telephone number where the witness or the designated representative may be reached and a topical outline or summary of the comments and recommendations in the full statement. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press and public during the course of a public hearing, may be submitted in other forms.

* * * * * * * * * *

H.R. 4395

To continue the suspension of duties on m-xylenediamine and 1,3-bis(aminomethyl)cyclohexane

June 17, 1988

WRITTEN COMMENTS OF SHEREX CHEMICAL COMPANY, INC. on H.R. 4395, a bill to continue the suspension of duties on m-xylenediamine and 1,3-bis (aminomethyl) cyclohexane

Summary

These comments are being submitted by Joseph J. Waiter, Secretary and General Counsel of Sherex Chemical Company, Inc., on behalf of Sherex. Sherex strongly supports H.R. 4395, a bill to continue the suspension of duties on two chemicals, MXDA and 1,3-BAC, through December 31, 1990. These chemicals have important applications in the automotive, electronics, aerospace and other U.S. industries. Neither chemical is manufactured in the United States. Sherex Chemical Company, through its wholly-owned subsidiary, Sherex Polymers, Inc., has negotiated a contract with the world's only manufacturer of MXDA and 1,3-BAC to distribute these chemicals in the United States. If the market development efforts are successful, Sherex will consider starting domestic production. Unless the suspension of duty rates is continued, however, the cost of these chemicals to the U.S. consumer will rise, test marketing of MXDA and 1,3-BAC will be difficult, and U.S. industries may lose the opportunity for eventual domestic sourcing of these useful chemicals.

Comments

Sherex Chemical Company, Inc. ("Sherex") strongly supports H.R. 4395, which would continue the suspension of duties on two chemicals, m-xylenediamine ("MXDA") and 1,3-bis (aminomethyl) cyclohexane ("1,3-BAC"), through December 31, 1990.

Sherex is engaged primarily in the production of fatty and other specialty chemicals which are manufactured in two Sherex plants in Illinois and Wisconsin. Sherex chemicals are used in a wide variety of industries such as the personal care, mining, pharmaceutical, fabric softener and plastics industries. The corporate headquarters of Sherex are in Dublin, Ohio.

The synthetic organic chemicals MXDA and 1,3-BAC are used as raw materials in the production of epoxy resins, epoxy curing agents, isocyanates and engineering plastics. The products being made from these chemicals are "state of the art" within their industries. These products serve the coatings, adhesives, electronics, automotive and aerospace markets.

Neither chemical is manufactured in the United States, nor has either been manufactured domestically for at least eight years. Thus, the continued duty suspensions will not harm any domestic industry.

The duties for MXDA and 1,3-BAC were suspended through December 31, 1987 in the Trade and Tariff Act of 1984. (At that time, MXDA, classified under Item 404.88 of the Tariff Schedules of the United States, was dutiable at a rate of 1.4 cents per pound plus 18.8 percent ad valorem and 1,3-BAC, classified under Item 407.05, was dutiable at a rate of 1.7 cents per pound plus 16.8 percent ad valorem.) The duties were suspended in order to enable Sherwin-Williams Chemical Company to test market the chemicals in the United States before investing in domestic production facilities. However, Sherwin-Williams did not develop the business substantially before a change of ownership of the company halted the effort.

Sherex, through its wholly-owned subsidiary, Sherex Polymers, Inc., has negotiated a contract with a Japanese company, the world's only manufacturer of MXDA and 1,3-BAC, to distribute the chemicals in the United States. Extending the suspension of duties on MXDA and 1,3-BAC for three years, retroactive to December 31, 1987, is necessary to allow Sherex the opportunity to increase its test marketing of these products in the United States. The duty suspensions will make the cost of the products made from these chemicals competitive in the domestic market during the commercial development phase. In the event market acceptance is established, Sherex will consider the feasibility of producing the chemicals domestically. Thus, the duty suspensions may lead to new employment opportunities and the replacement of imports with domestic production.

Currently, the domestic market for these chemicals is relatively small. However, the demand has been increasing, and is likely to continue to increase, as a result of technological developments in the automotive, electronics and aerospace industries. Extending the duty suspensions will allow U.S. industries to reduce their costs and remain competitive, while continuing to seek new applications for these chemicals.

Recently, the U.S. International Trade Commission issued a report to the Ways and Means Committee entitled, "Cost Savings or Other Benefits to U.S. Consumers Resulting From Temporary Duty Suspensions in the Trade and Tariff Act of 1984." (USITC Pub. No. 2060, February, 1988.) MXDA and 1,3-BAC are included in the category of intermediate chemicals analyzed by the Commission (ITC Report at 14-23). The Commission staff estimated that, in the category of intermediate chemicals, as much as 50 percent of the cost savings resulting from the temporary duty suspensions contained in the 1984 Trade and Tariff Act were passed on to U.S. customers (Id. at 23).

The duty suspensions on MXDA and 1,3-BAC should be continue in order to benefit U.S. consumers of these chemicals, and to provide the opportunity to eventually add these important chemicals to our domestic industrial base. The duty suspensions will allow Sherex to develop the domestic and international markets for these chemicals in order to justify domestic manufacture.

For the foregoing reasons, Sherex asks that the Subcommitte favorably report out H.R. 4395. We will be pleased to respond t any questions the Subcommittee may have, or to provide further information.

H.R. 4415

To extend until January 1, 1994, the existing suspension of duty on certain yttrium ores, materials, and compounds

STATEMENT OF R. GENE DEWEY, PRESIDENT, MOLYCORP, INC.

Statement on H.R. 4415 (suspension of duty on yttrium materials)

Mr. Chairman, I appreciate having the opportunity to present this statement in support of H.R. 4415, introduced by Congressman William M. Thomas of California. This bill would extend until January 1, 1994, the existing suspension of duty on certain yttrium ores, materials and compounds. I should like to take this opportunity to present some background on the U.S. yttrium industry and on the need for an extension of the existing suspension of the import duty on yttrium feedstock.

High-purity yttrium oxide and metal has significant commercial and national defense applications. Yttrium aluminum garnets (YAGS) and yttrium iron garnets (YIGs) are vital components in classfied military applications. Yttrium is also an important component in lasers, refractory insulating materials, strategic superalloys, energy-saving fluorescent lights, and color televisions. In 1987 the world's scientific community focused on yttrium as one of the key elements in the new 1-2-3 superconductor compounds.

There are no significant domestic sources of yttrium feedstocks. The two remaining U.S. refiners of high-purity yttrium oxide are dependent on imported yttrium concentrates for feedstocks. Specifically, U.S. refiners are reliant upon Japan, China, Canada, and Malaysia for feedstocks. U.S. refiners compete in the U.S. and export markets with foreign refiners who have access to duty-free feedstocks. A U.S. duty of 5.0% would be reimposed on yttrium concentrates if the current suspension is not renewed.

High purity yttrium products are produced in Louviers, Colorado, by Molycorp, Inc., and by the Research Chemicals Division of the Nucor Corporation in Phoenix, Arizona. Major foreign companies offering high-purity yttrium oxide in the U.S. include the large French government-owned company Rhone-Poulenc, China Rare Earths of the People's Republic of China, and Megon (partially owned by the government of Norway and Mitsubishi Chemical of Japan). During the previous decade, two other yttrium refiners permanently closed. These plants were operated by Michigan Chemical in Saint Louis, Michigan and American Potash and Chemical in West Chicago, Illinois.

Although the high-purity yttrium refining business is very competitive, Molycorp, the largest yttrium oxide refiner in the U.S., has been able to expand production in the past five years. Factors contributing to this expansion were 1)the suspension of duty on raw material feeds in 1984, 2)construction of a joint-venture yttrium concentrate plant in Canada with Molycorp technology, and 3)an increase in export markets for high-temperature coatings and ceramics.

Because of its military and commercial significance, we at Molycorp, believe it is important that the U.S. continue to have a strong capability to refine yttrium. We believe that the advantages of having a viable domestic industry far outweigh the insignificant amount of duty that might be collected (approximately $150,000 last year.) Molycorp, Inc., therefore, strongly supports H.R. 4415, which seeks to ensure the competitiveness of the American yttrium refining industry and our domestic supplies of this strategic material.

Mr. Chairman, thank you for the opportunity to present this statement in support of H.R. 4415. I hope that the Trade Subcommittee will act favorably on H.R. 4415 and that the Congress will act expeditiously to pass this important legislation.

H.R. 4493

Relating to the tariff treatment of certain entries of digital processing units

COMPAQ
COMPUTER CORPORATION

June 16, 1988

Robert J. Leonard, Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Re: H.R. 4493

Dear Mr. Leonard:

On behalf of Compaq Computer Corporation, I am pleased to respond to the Trade Subcommittee's June 1, 1988, request for written comments by interested parties on specified miscellaneous tariff and trade bills. For the reasons set forth in this letter, Compaq supports H.R. 4493, introduced by Congressman Archer, which relates to the tariff treatment of certain entries of digital processing units, and urges its passage by the Congress.

Compaq Computer Corporation manufactures personal computers that feature the latest in state-of-the-art high technology at manufacturing facilities in Houston, Texas, and offers them to customers throughout the United States and in more than 40 export markets. In 1983, the company's first full year of commercial operations, Compaq had sales of more than $111.2 million, the highest recorded first year sales in the history of American business. In the spring of 1986, it joined the ranks of the "Fortune 500" manufacturing corporations. In 1987, its fifth full year of operations, the company enjoyed sales in excess of $1.2 billion.

A strategic strength of Compaq is the ability to understand and meet customer needs. Compaq engineers take the best of available technology, package it, and deliver it to meet customer needs better and faster than any other major personal computer manufacturer in the world. Since formation of the company in 1982, Compaq engineers have developed an average of one major personal computer every nine months. This fast-paced performance has been complemented by many innovations, such as dual-mode monitors, internal fixed disk drive backup, high-capacity fixed disk drives, and a very high degree of hardware and software compatibility.

20555 FM 149 • P.O. Box 692000 • Houston, Texas 77269-2000 • (713) 370-0670

Compaq is one of the largest non-energy related employers in the Houston area, with over 3,500 area employees. Today, Compaq is embarked on a major expansion of its corporate headquarters and manufacturing facilities in Houston. In 1986, as part of its strategy to remain a leading competitor in the face of increasing foreign competition, Compaq supplemented its Houston operations by opening a circuit board assembly facility in Singapore. Since that time, Compaq has imported "digital processing units", as described in H.R. 4493, for incorporation into personal computers manufactured and tested in Houston. It was the reclassification by U.S. Customs of these imports by Compaq and numerous other United States computer manufacturers and suppliers, from a duty-free category for "parts" to a dutiable category of "unfinished automatic data processing machines", that has led to the request for relief contained in H.R. 4493.

The factual circumstances involved in the classification action by U.S. Customs on July 2, 1987, are complex, and need not be considered in great detail by the Committee. H.R. 4493 does not alter the classification result. Instead, H.R. 4493 seeks to provide interim, equitable relief in the form of a grace period, before the reclassification ruling is given effect. After many months of negotiations between the Customs Service, the Treasury Department and the computer industry, Treasury and Customs reluctantly concluded that they were not able to provide generic equitable relief under their operating statutory authority. Nevertheless, I understand that they support H.R. 4493 as an alternative form of relief in this particular case.

Equitable considerations clearly support passage of H.R. 4493. While it now appears that U.S. Customs entered into reclassification discussions with Intel Corporation as early as January of 1986, this was not a matter of public knowledge until Customs issued its classification ruling in July of 1987. Nor were the U.S. Customs import specialists at the various ports given any special notice that they might pass on to importers that any classification discussions were underway, or that the "parts" classification was incorrect. This is not unusual, to the extent that the matter was handled as a confidential "private ruling" between Intel and Customs, but it does underscore the fact that companies such as Compaq were given no notice of the intent of Customs to reconsider the classification of articles that, in the case of Compaq and numerous other United States original equipment manufacturers, were frequently and consistently being liquidated as "parts" by local import specialists. Despite the confidential nature of the private ruling process, the fact remains that the ruling itself, when issued, was to be given immediate industry-wide applicability to any unliquidated entries. (Customs, at the request of the computer industry, suspended liquidation while considering the administrative issues raised by the industry in the fall of 1987.)

The point is that there was no opportunity for the business community to plan for what was reasonably viewed as a major change in existing Customs practices at the local ports. (Without exception, all of the entries of these articles submitted by Compaq to local customs authorities in Houston during the period before July 2, 1987, were reviewed and liquidated as "parts".)

As you might imagine, major business decisions and plans are made, in part, on the basis of the tariff treatment of articles in the flow of international trade. For example, Compaq planners in 1986, engaged in the process of determining the economics of the proposed expansion to Singapore, reasonably relied on future duty-free entry of circuit board assemblies as "parts", based on their ongoing experience with local Customs authorities, and their review of information publicly available from U.S. Customs. The favorable economics of the Singapore facility were based, in part, on this expectation of duty-free tariff treatment.

Thus, it is only fair to provide, as does H.R. 4493, a duty-free transition period after the issuance of the July 2, 1987, ruling to permit the necessary adjustments in the company's operations while retaining the full measure of the company's competitiveness in the United States and export markets.

I should also state in support of this bill my understanding that the relief it grants would not result in any loss of planned and budgeted revenues to the United States. I am informed that any revenues received by the Treasury as a result of the reclassification, covering the period prior to January 1, 1988, would be viewed as a "windfall". Such revenues are not calculated into any of the budget estimates submitted by the Administration.

I appreciate the opportunity to provide these comments in support of passage of H.R. 4493. The bill provides equitable relief that helps maintain the competitiveness of the United States computer industry.

Very truly yours,

James M. Eckhart
Senior Vice President
Corporate Operations

CBEMA

June 17, 1988

Mr. Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

RE: H.R. 4493

Dear Mr. Leonard:

On behalf of the Computer and Business Equipment Manufacturers Association (CBEMA), I am pleased to respond on the Trade Subcommittee's June 1, 1988 request for written comments by interested parties on specified miscellaneous tariff and trade bills.

CBEMA strongly supports the passage of H.R. 4493, "Relating to the Tariff Treatment of Certain Entries of Digital Processing Units." It is a bill that restores equity following a series of events that led to the inequitable assessment of millions of dollars in tariffs on our industry.

Those events center on the question of the importation of "motherboards," essential components of many microcomputers. Until July 2, 1987, our industry imported motherboards under a Customs classification of "parts." The Customs Service's July 2 ruling retroactively put motherboards into a classification of "machines," imposing duties on them retroactive to January, 1986. Since companies did not know that motherboards were being examined for possible reclassification, there was no way that they could contribute intelligently to the process, nor could they act so as to avoid or minimize the duties subsequently imposed.

H.R. 4493 would treat unliquidated entries of motherboard imports by the U.S. data processing industry between January 17, 1986, and December 31, 1987, as duty free, due to these circumstances. The attached paper explains these circumstances in greater detail and also spells out the effects the bill would have on the industry and on Federal revenues.

CBEMA urges the rapid passage of this bill. It will resolve an inequity that, if not removed, would result in a severe blow to the international competitiveness of the information technology industry.

Sincerely,

John L Pickitt
John L. Pickitt
President

Computer and Business Equipment Manufacturers Association 311 First Street, N.W., Suite 500, Washington, D.C. 20001 (202) 737-8888

CBEMA

INFORMATION ON H.R. 4493

Background

In early 1986, Intel Corporation challenged a Customs Service directive regarding the tariff classification of its so-called "single board computer," a product which meets the definition of H.R. 4493. Intel's challenge was based on whether motherboards should be classified as "data processing machines" (TSUS item 676.54, which has duty free treatment) or as "data processing machines" (TSUS 676.15, which is dutiable at 3.9%). The Customs Service ruled on July 2, 1987 that motherboards are classifiable under TSUS 676.15.

Under Customs administrative procedures, only one firm (Intel), as in most cases, knew of this classification issue. No administrative procedures exist to inform other companies in an industry potentially affected by a challenge, since these cases frequently involve classification issues on unannounced products.

In discussions with Treasury after the July 2 Customs ruling, the industry held that they had, for several years, entered these boards as "parts" under TSUS 676.54. The industry presented large volumes of data showing that these boards had been entered by the companies and liquidated by Customs as "parts." The industry held that their data proved that the Customs Service had followed an "established and uniform practice," as provided for in the Tariff Act of 1930.

The situation was complicated by the fact that during the period between Intel's challenge and the ruling, the Administration imposed sanctions against Japan for violating the U.S.-Japan Semiconductor Arrangement. One of the candidate TSUS categories examined by the Administration for possible sanctions was TSUS item 676.15. In its Federal Register notice of April 17, 1987, the Administration said it had followed its intent that sanctioned products had been selected in such a way as "to minimize the impact of American consumers and businesses." Indeed, the computer industry had not objected to the inclusion of TSUS item 676.15 in the sanctions. since company records showed that they had not been importing substantial volumes of equipment under that item.

The industry petitioned Treasury to find that an "established and uniform practice" as defined in the 1930 Tariff Act had existed. They showed that during 1983-85, almost 500 entries of motherboards had been liquidated by Customs as parts. Customs found that a minimal number of entries in this time frame had been liquidated in the higher rate "machines" category. Based on its interpretation of the strict standards set by the law and case history, Treasury found that no established and uniform practice had existed.

What H.R. 4493 Does

This bill does not address the correctness of either the July 2 Customs Service ruling, the Treasury Department finding, or the Japanese sanctions. Rather, it addresses several inequities raised by the unique circumstances of this case:

1. It is not the practice of Customs to inform other companies potentially affected by the challenge of a classification, which in this case took Customs 15 months to resolve. Thus, the affected companies could not alter their international trade actions to provide for the contingency of a reclassification. Yet, the July 2 ruling is retroactive to January 17, 1986, and affects the entire industry.

2. During the period between the Intel challenge and the ruling, the Administration imposed sanctions against Japan without U.S. industry's understanding that motherboards they import from Japan would be affected by the sanctions. Thus the comment our industry made on the sanctions was necessarily incomplete. Had we known of the impending ruling, we would have voiced very strong objections to the sanctions. Had those sanctions been imposed, we could have immediately slowed or ceased our importation of the motherboards. But since we operated without knowledge of the impending ruling, we could take no action to protect our companies against the severe financial problems that resulted from the ruling.

3. For a number of years, documented by evidence furnished by the industry, the overwhelming majority of motherboards imported into the U.S. had been treated by Customs as parts. Although it was not possible, because of a minimum number of isolated instances, to prove a uniform practice to the satisfaction of Treasury, it is inequitable to ignore widespread, nearly universal reliance on past practice. It is especially significant in this regard to note that the companies most severely affected by this ruling presented clear evidence that Customs had liquidated all their motherboard entries as "parts."

4. Without adequate notice, companies in this most competitive of American industries are exposed to payment of large amounts of customs duties, affecting their production costs, while having to face increasingly aggressive foreign product competition. Undermining the U.S. information technology industry is not the intended result of the U.S. imposition of sanctions on Japan. The bill rids the industry of a clearly unintended result.

Why This Time Frame?

Most firms in the industry had signed contracts with non-U.S. vendors prior to the July 2 ruling, and contracts could not immediately be canceled, delayed, or diverted. After the ruling, companies needed time to adjust their business plans, since it takes several months for firms to identify alternate suppliers, to qualify the suppliers' products, to negotiate new contracts, to begin volume production, and to start product deliveries. In other cases, United States companies had set up their own foreign assembly facilities to supplement their domestic manufacturing operations, and needed time to readjust their overall strategy to take into account the changes in the economies of their operations caused by the duty increase. This bill provides a "buffer period" of six months (July 2 through December 31, 1987) of duty free treatment, a period sufficient for companies to have adjusted their manufacturing and sourcing plans. H.R. 4493 also addresses imports from January 17, 1986 until July 2, 1987, since most firms were unaware of the ruling request and had been making business decisions based on a reasonable reliance on previous Customs treatment.

Treatment After December 31, 1987

This bill does not challenge the merits of the Customs ruling or Treasury's finding on the practice issue. After December 31, 1987, motherboards continue to be classifiable under TSUS item 676.15 at 3.9%. The bill does not affect the sanctions currently in place.

Revenue Impact

This bill will result in estimated savings to the U.S. industry of $40 million, but will have no impact on the revenue estimates submitted to Congress. Without this bill, the increased duty payments would grant an unintended, unexpected windfall to the Treasury while unfairly damaging the U.S. computer industry's competitiveness. By helping the industry to contain its costs, hence price competitiveness, the resulting increased demand and sales should result in some additional long-term revenue generation.

intel

June 17, 1988

COMMENTS IN SUPPORT OF PASSAGE OF H.R 4493

Intel Corporation is a leading U.S.-based manufacturer of semiconductors, computers and related subassemblies. In addition to substantial manufacturing facilities in the United States, Intel manufactures and sources components from abroad in order to remain cost competitive within the electronics industry. The products that are the subject of H.R. 4493 are among those parts that Intel imports.

H.R. 4493 addresses the many inequities caused by the July 2, 1987 ruling by the U. S. Customs Service regarding classification of digital processing units ("DPUs"). The ruling's implementation resulted in similarly situated importers being treated differently. For example, Intel was the only importer of DPUs that was made liable for duties during the entire pendency for the ruling, January 17, 1986 through July 2, 1987. Liquidating the shipments of DPUs entered during that period without duties corrects this inequity by placing Intel on an equal footing with the rest of the computer industry.

Description of the Product

The term DPU "means a digital processing unit for an automated data processing machine, unhoused, consisting of a printed circuit (single or multiple) with one or more electronic integrated circuits or other semiconductor devices mounted directly thereon." It contains the microprocessor that performs the computing functions of an automatic data processing machine. Typically, the DPU is interconnected with other subassemblies such as memory, input/output, communications and graphics boards.

Background

On January 17, 1986, computer parts became duty free as a result of an international agreement between the United States, Japan and Canada. On that date the Customs import specialist in San Francisco required Intel to stop entering DPUs under the computer parts duty-free provision, TSUS item 676.54, and begin entering them under a dutiable classification, TSUS item 676.15. Previously, items 676.15 and 676.54 carried the same rate of duty. The import specialist's action was based on an internal document received from the national import specialist in New York. The "difference" between the two import specialists was eventually resolved by a Headquarters ruling on July 2, 1987. Intel cooperated with this procedure with the expectation that it would be treated the same as other importers.

The issue of the classification difference was not widely known among other Customs ports, and there was no systematic effort on the part of Customs to collect duties or suspend liquidation on similar and competing merchandise imported by other firms during the pendency of the ruling. Further, the ruling was not implemented immediately when it was issued on July 2, 1987. Customs did not begin suspending liquidation on this merchandise uniformly until mid-August 1987. As a result, to our knowledge, Intel is alone among the companies within the computer industry that has paid duties and had its entries suspended during the entire pendency of the ruling. Therefore, we believe that no other company is potentially subject to the ruling for the nineteen-month period from mid-January 1986 through mid-August 1987.

Why H.R. 4493 Is Needed

This bill is needed to correct the inequities caused by the Customs ruling. When Intel was notified in January 1986 that it would have to begin entering its shipments of DPUs under a dutiable provision, the company believed that it would not be economically disadvantaged *vis-a-vis* its competitors by the change in classification initiated by the Customs Service. As shown above, this belief was mistaken.

While it is difficult to quantify lost sales or lost profits, such lost sales or profits can be assumed to have occurred in an industry that was characterized at the time by low selling margins. During the period of the ruling Intel was unfairly required to absorb duty costs when other companies were not.

The ruling on DPUs is not the normal Customs ruling which involves a unique product of a particular importer. While an Intel product was the initial subject of the ruling, the scope of the ruling is generic. It was written in a general way to include within its scope all importers' merchandise. Thus, when the ruling is implemented, it should not penalize one importer more than other importers of the same product merely because its product was the initial subject of the ruling.

The circumstances surrounding the ruling demonstrate that Intel was unfairly treated and highly prejudiced by the way in which its imports were solely made subject to Customs duties for a nineteen-month period.

Intel supports the additional six-month period beyond the date of the ruling to allow those importers, caught unaware of the reclassification, a grace period during which sourcing and manufacturing plans could reasonably be expected to have changed to accommodate the effects of the ruling.

Revenue Impact

This bill will result in a savings of approximately 1.8 million dollars for Intel. For the U.S. industry as a whole, the savings is estimated to be 40 million dollars. Since these duties were the result of the Customs ruling, they were not in the revenue estimates and their refund would not affect the budget for fiscal 1988.

Conclusion

Intel urges that the Ways and Means Committee report H.R. 4493 to the floor of the House for adoption as a means of correcting the inequities caused by the DPU ruling. The bill will restore equality among all importers of this product. For reasons of equality and fairness this bill should be enacted.

STATEMENT OF INTERNATIONAL BUSINESS MACHINES CORPORATION ON H.R. 4493

June 17, 1988

The International Business Machines Corporation of Armonk, New York, is pleased to be given this opportunity to comment on H.R. 4493. IBM is a worldwide provider of computers and information systems equipment, and related software and services. With operations in more than 130 countries, we offer our customers a complete line of computers from very large computer systems used for a variety of business, scientific, engineering and other applications, to personal computers suitable for use either in the office or at home.

HR 4493 would affect the smaller Personal Computer (commonly called "PC") part of our product line. The PC marketplace is one of the world's most competitive high technology businesses:

Highly Competitive U.S. Industry. According to industry estimates, the domestic PC industry accounted for up to approximately $28 - 35 billion in hardware, software, and services revenue in 1987. Through 1986, almost 25 million personal computers are estimated to have been installed in the United States, and at the end of 1987, this number was nearing the 30 million mark.

Highly Competitive Global Industry. Industry observers estimate that approximately $ 70 - 80 billion in global revenues were realized by PC suppliers in 1987. In the United States, we face steadily growing challenges from the imports of low-priced, but technologically competitive foreign-made products. A small, but important portion of these foreign-made imports are the so-called "clones," PCs which have been designed and manufactured based on the technology originally developed by American PC manufacturers.

High Volume, Low Price Marketplace. With strong and steadily growing customer demands for PCs, the U.S. industry and that of our competition abroad are characterized by production in high volume in order both to satisfy this demand and to achieve certain economies of scale in production lines.

Strict Product Cost Containment. To reduce production costs and to price competitively, IBM and other companies must address rigorously all aspects of manufacturing and distribution. One cost control technique is to identify, qualify, and procure high quality, reasonably priced parts and components from vendors, whether in the United States or abroad.

High Technology. Personal computers, originally offered for sale in the United States in the mid-1970's, have undergone the same kind of technology innovation as has been enjoyed by the computer industry throughout its history. IBM offered its first PC1 product line in 1981, a family of computers that won worldwide customer acceptance from the day it was announced. Last year, IBM announced a new family of PCs, the Personal System 2 (PS/2) line. The PS/2 family offers not only dramatically improved price/performance to our customers, but also a much wider variety of customer application and ease-of use characteristics, and significantly enhanced computer graphics.

BACKGROUND OF THIS ISSUE

H.R. 4493 addresses several unintended and unforeseen consequences arising from a July 2, 1987, U.S. Customs Service ruling regarding the proper classification of a critical component of personal computers called "motherboards," and the intersection of that ruling with the prior imposition of sanctions against Japan for violating the U.S.-Japan semiconductor agreement.

The U.S. computer industry and the Administration have reached agreement on a working definition of motherboards -- that they are the "populated circuit boards which are the main board of a computer." Populated circuit boards are exactly that. They are boards of varying dimensions which are "populated" with integrated circuits. Such boards serve a variety of purposes in computers -- some for graphics, some to route information, and motherboards, which manage many of the major machine functions and process most of the data in computers.

For years since PC's were first introduced, American firms who bought motherboards from suppliers abroad, or imported them from their plants overseas, imported motherboards under former Tariff Schedule (TSUS) item 676.52, or "parts of accounting, computing, and other data processing machines." Tariff rates on this classification had been lowered in several increments pursuant to agreements the United States negotiated with our trading partners after the Tokyo Round. In 1986, the rates had been cut to 3.9%.

During late 1985 and 1986, two things were happening in parallel. First, the governments of the U.S., Japan, and Canada concluded negotiations commonly referred to as the "Computer Parts Agreement," in which the three governments agreed to eliminate tariffs for TSUS item 676.52. To implement this agreement, the U.S. created a new TSUS item, 676.54. There was no difference between 676.52 and 676.54, except the tariff was reduced from 3.9% to zero. IBM, which had been receiving uniform treatment of motherboard imports under 676.52, began to import them duty free under 676.54. The Customs Service, through its liquidation of our imports under these "computer parts" provisions, had not objected to this classification practice.

In late 1985 and early 1986, Intel Corporation was importing a product which met the definition of motherboards. Because of differing opinions at two ports regarding the proper classification of these boards (one port said they were classifiable as "parts," and the other said they were classifiable as "accounting, computing, and other data processing machines" under TSUS item 676.15 and therefore dutiable). Intel was given an opportunity to respond. They did so in the spring of 1986.

To resolve the question, Customs sent a ruling letter to Intel on July 2, 1987. During the interim period, neither IBM nor the rest of the industry was aware that this classification issue was being reviewed by Customs. When Customs issued the ruling, they held that all importers' motherboards should be classified under the higher tariff rate TSUS item 676.15. Further, Customs held that this ruling would be made retroactive to January 17, 1986.

Again, other developments had happened in parallel that produced a very costly, albeit unintended, inequity. In March 1987, Japan was found by the U.S. Trade Representative's Office to have violated the U.S.-Japan semiconductor agreement through the dumping of semiconductor chips in the U.S. and third country markets and by denying access in the Japanese market to U.S. merchant semiconductor companies. In light of that, USTR announced that they intended to apply $300 million in sanctions against Japan.

In the March 31, 1987 Federal Register, three months prior to the Intel ruling, USTR published a list of candidate TSUS product categories for possible sanctions. In the Federal Register notice, USTR sought public comments, among other items, on "the degree to which increased duties might have an adverse effect on U.S. consumers of the products concerned." Neither IBM nor the rest of the U.S. computer industry expressed concern about the inclusion of item 676.15 in the sanctions, since the U.S. industry had not been importing substantial volumes of data processing machines from Japan.

When sanctions of 100% duties were imposed on April 17, 1987, neither IBM nor the industry objected. A "Statement by the President" on April 17 stated that, "The products upon which the tariffs are being raised were chosen to minimize the impact on American consumers and businesses." IBM had no reason to believe at that time that the imposition of the sanctions would not conform to this statement of Presidential intent.

U.S. INDUSTRY RESPONSE TO THE INTEL RULING

When the Intel ruling became public after July 2, 1987, the U.S. computer industry was shocked by the serious cost impact the ruling would have on its sources of motherboard supply. All motherboards had suddenly become dutiable and those from Japan had duties increased from 0 % to 100 %. Meeting with representatives of USTR, the Commerce Department, the Treasury Department, and the Customs Service, industry representatives questioned the appropriateness of the ruling and whether the ruling constituted a change in classification as described in the "established and uniform practice" provision of the 1930 Tariff Act.

The industry coalition petitioned the Treasury Department to find that the ruling constituted a change in "established and uniform practice" and that this change resulted in a higher rate of duty than the previous practice of classifying motherboards as "parts" of computers under TSUS items 676.52 and 676.54. If Treasury agreed with this view, then the Customs Service would have been required to publish notice of its intent to reclassify these products. First, this would have meant the increased duties could only be applied prospectively once a final decision to reclassify was published. And second, it would give the industry an opportunity to comment. The industry was simply requesting a chance to be heard.

Treasury did agree in August, 1987, to suspend liquidations of future motherboard imports until it made a decision on the "established and uniform practice issue." That suspension remains in effect today.

In preparing its case for Treasury on the established and uniform practice issue, the industry documented that almost 500 shipments of 1,700,000 motherboards during a period of 4 years had been classified and liquidated by Customs as data processing "parts." Treasury felt constrained, in the final outcome on the practice issue, by the fact that Customs had found a handful of imports covering 839 boards which had been liquidated under TSUS item 676.15. Treasury concluded that this miniscule inconsistency of treatment, representing less than one-two hundredth of one percent of all motherboards imported, was still sufficient to demonstrate doubt within Customs on the proper classification of motherboards and therefore, that no established and uniform practice had existed.

The data IBM submitted as part of this industry exercise highlights the unintended inequities caused by this intersection of Administration decisions. In its various submissions to Treasury and Customs, IBM showed the following:

Before August 1987, when the suspension of motherboard liquidations was ordered, IBM had imported over 97,000 boards into the United States over a 4 year period. Each of the 142 individual entries of these boards were liquidated by Customs under the parts provisions, items 676.52 and 676.54 of the Tariff Schedules. To us, this documented not only an "established" practice, but also a "uniform" one.

IBM showed we had reasonably relied on this practice in our business planning assumptions. During the period that we had experienced this uniformity of customs treatment, we were also concluding our plans for introducing the new PS/2 family of personal computers. As mentioned previously in this statement, in light of the tremendous price competitiveness in the personal computer marketplace, our PS/2 production costs were under heavy managerial scrutiny. One way to examine and challenge costs is by setting "benchmarks," standards on which to evaluate the cost and quality of our new products and production techniques. Therefore, in the summer of 1986, we concluded a contract with Matsushita for a limited number of PS/2 motherboards. This supply would help us measure the quality and production costs of our own IBM-manufactured motherboards in the U.S. and Canada. Later, due to the very large demand for PS/2's we supplemented our North American production with greater volumes of Matsushita boards, assuming they would be treated as duty free parts under 676.54.

We also showed that the burden of the semiconductor sanctions fell unfairly on IBM. IBM's exposure from the combined effects of the retroactive Intel ruling and the sanctions in 1987 is $26 million, $24 million of which are due to the sanctions. Statistics at the Commerce Department's Foreign Trade Reference Room show that, in 1987, motherboard imports from Japan (not including IBM's) amounted to only $7.6 million, the amount of sanctions duties that would be owed. Thus, without H.R. 4493, IBM would be forced to pay three times more in sanctions duties on motherboards than all other importers combined. We cannot believe that this was the intended effect of the sanctions, especially in light of the President's declaration that the products chosen to be sanctioned were not to harm American consumers and businesses.

CONCLUSION

IBM strongly endorses H.R. 4493 and urges the Congress of the United States to press for its prompt enactment. The U.S. computer industry is one of America's most competitive internationally and a substantial contributor to the U.S. balances of trade and payments, and IBM is proud of the role we play both in our industry and in the U.S. economy.

A fundamental requirement for maintaining our international competitiveness is sound business planning, especially as it relates to fundamental assumptions about production costs. Such planning assumptions rely on consistency and equity in the application of U.S. laws, in this case, the application of customs law through uniform and consistent classification practices.

IBM urges adoption of H.R. 4493 as a means of addressing the unintended inequities that arose from the unforeseen intersection of different Administration actions that were made in the absence of full public understanding of what was happening at the time. In addition to addressing the consequences of the retroactive application of the Intel ruling and the sanctions, H.R. 4493 provides a six month adjustment time frame which should have been sufficient for IBM and other firms to have adjusted their manufacturing and sourcing plans.

We ask that the Ways and Means Committee report H.R. 4493 to the floor of the House of Representatives for adoption.

H.R. 4500

To suspend temporarily the duty on octadecyl isocyanate

Mobay

Bayer

Mobay Corporation
A Bayer USA INC. COMPANY

Mobay Road
Pittsburgh, PA 15205-9741
Phone: 412/777-2000

June 14, 1988

Mr. Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
Room 1102 Longworth House Office Building
Washington, DC 20515

Dear Mr. Leonard:

I write on behalf of Mobay in support of House of Representative Bill 4500 introduced by Congressman Alan Mollohan to suspend duty on octadecyl isocyanate (ODI) for three years.

ODI is a specialty chemical and a key ingredient in making adhesive tapes for a wide assortment of uses. It is also used to a lesser extent in the manufacture of solid rocket fuels and thus is of importance to government contractors participating in U.S. rocketry programs.

While the consumption of ODI in adhesive tapes is relatively small - estimated at 300,000 pounds in 1988 - it represents end-use products having market value in the millions of dollars.

There are no known domestic producers of this chemical. In fact, we believe that Bayer AG of West Germany is the only producer in the world of ODI suitable for the end-uses mentioned. Currently, ODI is imported under United States Tariff Schedule (TSUS) 425.5290 and carries a duty rate of 7.9 percent ad valorum. When the U.S. adopts the new harmonized coding system, ODI will be classed under TSUS 2929.104004 and charged a duty of 13.5 percent.

For years Mobay produced ODI in a multipurpose plant in its manufacturing complex in West Virginia. This plant was shutdown and dismantled in 1987 for economic reason. Since that time Mobay has been importing the chemical from Bayer to satisfy its sales commitments in the U.S. The new supply arrangement has raised the cost of using ODI to our customers that would be alleviated by waiving the duty imposed on the chemical.

We urge the committee to approve this requested temporary suspension of duty.

Sincerely,

PG Gemeinhardt

P. G. Gemeinhardt
Director, Communications and Advocacy
for Chemical Industry Issues

3M Tax Division

Building 220-6E-02, 3M Center
St. Paul, Minnesota 55144-1000

3M

June 14, 1988

Mr. Robert C. Leonard
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
Room 1102
Longworth House Office Building
Washington, DC 20515

RE: Suspension of Duty: House Bill No. 4500

Dear Mr. Leonard:

We want to add our support to House Bill Number 4500 requesting duty suspension on Octadecylisocyanate. Octadecylisocyanate is an important intermediate chemical which is used in manufacturing tape for both the export and domestic market.

It is not manufactured in the United States nor is there an acceptable substitute. Suspension of duty will enable us to remain competitive in world markets.

Sincerely,

Kenneth A Kumm

Kenneth A. Kumm
Manager, Customs and Trade Affairs

H.R. 4504

Relating to the temporary tariff treatment of impact line printers

GENICOM
GENICOM CORPORATION
GENICOM DRIVE, WAYNESBORO, VA 22980-1999
PHONE 703-949-1000 • TELEX# 710-839-0407

June 15, 1988

Mr. Robert J. Leonard, Chief Counsel
Committee On Ways and Means
U. S. House of Representatives
Room 1102, Longworth House Office Building
Washington, D. C. 20515

RE: H. R. 4504
Relating to the Temporary Tariff Treatment of Impact Line Printers

Dear Mr. Leonard:

As the largest independent manufacturer of computer-related printers in the United States, I am writing to express the support of GENICOM Corporation for H. R. 4504.

Headquartered in Waynesboro, Virginia with additional manufacturing operations in Hudson, New Hampshire and sales and service offices throughout the United States, Canada, Europe and Australia, we employ over 3,600 people and had annual sales of $302.0 MM for 1987.

Our ability to achieve continued growth in a highly competitive worldwide market is in large part dependent on our ability to conduct long-range strategic planning and to enter into worldwide contractual agreements with the confidence that we can maintain our cost and profit objectives. The purpose of H.R. 4504 is to maintain the duty rate on impact line printers at 3.75% ad valorum. It was this duty rate upon which we based our long-range marketing plans and entered into major commitments.

The U.S. printer market has been targeted for penetration by Far East producers who receive both tax incentives and tariff protection from their government.

Passage of H.R. 4504 will support American manufacturers in maintaining cost structures that will allow them to be more competitive in both U.S. and overseas markets.

GENICOM respectfully requests the support of the House Subcommittee on Trade, Committee on Ways and Means for H.R. 4504.

Sincerely,

Powell

Curtis W. Powell
President & Chief Executive Officer

STATEMENT OF CONTROL DATA CORPORATION IN SUPPORT OF H.R. 4504

Control Data Corporation, headquartered in Minneapolis, Minnesota, provides computer products and services to scientific, engineering and business markets worldwide. Control Data is the minority partner (45%) in a joint venture with a Romanian electronics company for the manufacture and export of computer peripheral equipment. Control Data supports passage of HR 4505, a bill relating to the temporary tariff treatment of impact line printers.

Background

In 1973, with the support of the U. S. government, Control Data became the minority partner (45%) in a 20-year joint venture manufacturing agreement with a Romanian electronics company for the manufacture of computer peripheral products that could not be competitively manufactured in the U.S. While most of the products are "mature" products destined for European markets, the granting of Most Favored Nation trading status to Romania in 1975 made it economically feasible and competitively practical to export a limited product line to the United States. Until March 1987, when the U.S. government revoked Generalized System of Preferences (GSP) privileges, Romanian products entered the U.S. duty free; loss of GSP meant that Romanian products would be charged the column 1 MFN tariffs. When MFN status ceases on July 3, 1988 tariffs on the imported printers will be charged at the column 2 rates.

In the first 15 years, a variety of computer peripheral products have been produced by the joint venture including drum printers, card readers, disk drives, tape drives, matrix printers and impact line printers. For a number of reasons, including stringent controls on export of U.S. technology, only four products are currently produced by the joint venture. With one exception, the relatively low level of technology in these products limits their marketability to the non-market economies of eastern Europe. The exception is impact line printers which are exported to U.S. customers in small quantities.

Product Description

Impact line printers, also known as band printers, are high speed printers that are attached to mainframe computers or mini-computers that print entire lines of characters at a time. Print speeds range from approximately 100 lines per minute up to several thousand lines per minute. Impact line printers are generally sold on an OEM (Original Equipment Manufacturer) basis to computer manufacturers who include them as part of a complete computer system. Impact line printers are imported as "printer units, other" under TSUS 676.3073. The impact line printers exported by the joint venture to the United States operate at a maximum speed of 2000 lines per minute.

Current Benefits

To date, this has been a successful joint venture; hard currency generated from printers exported to the United States is used to buy U. S.-made parts for the manufacture of mature computer peripheral products that are marketed to Eastern Europe customers. However, since MFN status for Romania will expire on July 3, U.S. printer customers are reluctant to place orders for additional printers because the additional duties would prevent competitive pricing of these products.

Historically, Control Data, its customers and suppliers have benefited from this joint venture. For all the products manufactured, a large percentage of the parts are made in the United States. The parts and services provided to the joint venture generates jobs and revenue to Control Data and its U.S. suppliers. Additionally the "hard currency" generated by the sale of impact line printers to U.S. customers is used to pay for the parts used in other products made by the joint venture that are marketed in eastern Europe.

Competitive Impact

If tariffs on impact line printers are allowed to rise to the 35% column 2 level, the joint venture will be faced with difficult choices. It can pay the increased tariffs (estimated to be $1400 per unit on the non-U.S. content) on orders it is contractually obligated to fill and pass the increases onto its customers. The increased prices would virtually eliminate any future business. Far East suppliers could be expected to be the primary beneficiaries, since there is only one U. S. supplier of impact line printers. Alternately, the joint venture could void its current customer contracts and supply commitments that would result in claims for default. Ultimately Control Data would be forced to terminate prematurely its joint venture agreements, resulting in a substantial monetary loss, estimated to be in excess of $3 million.

Conclusion

The effect of HR 4504 would be to permit the joint venture to fulfill contractual obligations now in effect while Romania still has Most Favored Nation Trading status, and thus continue to pay column 1 tariff rates of 3.7% ad valorem. Without this legislation, tariffs will rise of column 2 rates of 35%. This would not be competitive advantage for the joint venture; rather, it would continue the status quo and preserve parity among other exporters, mainly from the Far East, of impact line printers, since all Far East suppliers enjoy MFN. Only exports to the U.S. from countries not granted non-discriminatory Most Favored Nation status pay column 2 rates. Obviously, the sole U.S. producer would continue the relative advantage of only paying tariffs on imported parts and components, if any, in its product.

For these reasons, Control Data strongly supports HR 4504 and urges its passage by the Committee.

H.R. 4521

For the relief of tube forgings of America

No statements submitted.

H.R. 4553

To enhance the enforcement of the laws relating to the conservation of the American lobster.

NATIONAL FISHERIES INSTITUTE, INC.

2000 M STREET, N.W., STE. 580 ■ WASHINGTON, D.C. 20036 ■ (202) 296-5090

June 17, 1988

Mr. Robert Leonard
Ways and Means Committee
1102 Longworth HOB
Washington, D.C. 20515

RE: H.R. 4553

Dear Mr. Leonard:

On May 18th, the National Fisheries Institute (NFI) wrote to Chairman Rostenkowski expressing concerns over a Senate Finance Committee amendment to the U.S. Canada Free Trade Agreement (FTA) that would prohibit imports of certain sized Canadian lobsters into the U.S. H.R. 4553 is identical to the Senate FTA amendment and raises the same concerns as NFI expressed over the FTA language.

Enclosed is a copy of NFI's comments on the FTA lobster amendment and on similar legislation considered in 1985. Also enclosed is a copy of a Department of Commerce legal memorandum on the importation of Canadian lobsters. The NFI requests that the Committee include these comments in your review of H.R. 4553.

Federal regulations have been established by the Department of Commerce to manage the American lobster fishery. The current management regulations do allow for the importation of legally harvested Canadian lobsters with proper documentation. These regulations also are enclosed for your review.

We appreciate the opportunity to submit comments on H.R. 4553. Please call if you have any questions.

Sincerely,

Thor J. Lassen
Government Relations
Representative

Enclosures

NATIONAL FISHERIES INSTITUTE, INC.

2000 M STREET, N.W., STE. 580 ■ WASHINGTON, D.C. 20036 ■ (202) 296-5090

May 18, 1988

Honorable Dan Rostenkowski
U.S. House of Representatives
Washington, D.C. 20515-1308

Dear Congressman Rostenkowski:

The Senate Finance Committee adopted an amendment to the U.S. -Canada Free Trade Agreement (FTA) prohibiting imports of certain sized Canadian origin lobsters into the U.S. The National Fisheries Institute (NFI), a national seafood trade association with over 1,000 members, is concerned about this provision. NFI urges the House Ways and Means Committee not to adopt a similar provision during its mark-up of the FTA implementing legislation.

The Finance Committee amendment is similar to S. 2362 introduced by Senator Mitchell on May 10, 1988; a companion measure was introduced in the House on the same day. There simply has not been time to consider the potential ramifications of legislation affecting lobster imports which account for 50 percent of U.S. lobster supplies. NFI requests a more deliberate approach and more thorough consideration of this matter.

Briefly stated, the following issues and concerns should be considered before any further Congressional action takes place.

- The Senate amendment sets a dangerous precedent by using trade restrictions to dictate conservation and management policies to sovereign nations. Will such an approach lead to retaliation against U.S. exports?
- Is there compelling evidence that harvests of Canadian lobsters at size limits smaller than some U.S. limits have any conservation impact on U.S. lobster stocks?
- Is it wise for Congress to legislate fishery restrictions for resources which change constantly and require expert scientific management?
- Are there legitimate enforcement concerns that smaller sized Canadian lobsters in the U.S. market will lead to illegal sale of undersized U.S. lobsters? Do the current country-of-origin labelling requirements provide an effective safeguard?
- Some states, New York, New Jersey and Connecticut for example, allow smaller harvest size limits on lobsters caught in state waters than federal regulations. Is is a violation of GATT to restrict imports when individual states can continue to produce smaller lobster?

These and other issues should be addressed before the Finance Committee amendment is voted on.

Thank you for your consideration.

Sincerely yours,

Richard E. Gutting, Jr.
Vice President
Government Relations

NATIONAL FISHERIES INSTITUTE, INC.

2000 M STREET, N.W., STE 580 ■ WASHINGTON, D.C. 20036 ■ (202) 296-5090

November 14, 1985

Jeff Kaelin
Subcommittee on Fisheries and
  Wildlife Conservation and
  the Environment
H2-540 House Annex 2
Washington, D.C. 20515

Dear Jeff,

Thank you for letting me know that you are working on a draft legislative proposal which would prohibit the importation of products from small-sized lobster (Homanus americanus), particularly from Canada. Following our conversation I discussed your proposal with several lobster companies in New England. No one thought legislation was needed or a good idea.

The U.S. and Canada both have fisheries for Homanus americanus. The U.S. fishery is managed under the American Lobster Fishery Management Plan prepared by the New England Fishery Management Council. This plan prohibits the possession of lobsters taken from the U.S. fishery conservation zone under 3 3/16" up to the point of first transaction (sale). The 3 3/16" size limit also applies as a possession restriction in all coastal state landings from Maine to North Carolina except New Jersey where the size limit is being changed from 3" to 3 1/8" in 1986 and 3 3/16" in 1987. Anyone within the jurisdiction of the United States who buys U.S.-harvested lobsters which were possessed in violation of these federal or state standards is subject to prosecution under the Magnuson Act and the Lacey Act.

Canadian law requires that lobsters from the Bay of Fundy or Nova Scotia waters be 3 3/16". However, lobsters from the Gulf of St. Lawrence/Prince Edward Island area can vary in size from 2 1/2" to 2 3/4" depending on which of three management areas they are taken from. The smaller size limits for Prince Edward Island lobsters reflect biological differences from the Nova Scotian and New England lobsters. According to scientists at the St. Andrews laboratory in New Brunswick, the Prince Edward Island lobsters mature at smaller sizes than New England stocks because of the warmer water temperatures coming from the Gulf of St. Lawrence.

You explained that the reason why an import ban was needed was to strengthen the enforcement of the fishery management plan to conserve U.S. stocks. Our members would be alarmed if they believed there was a "black market" in illegal U.S.-harvested lobsters. Since the plan was adopted in 1983 there have been 20 reported violations of the U.S.-FCZ size restriction out of a total of 123 total reported violations. There is no indication that a "black market" in small lobsters exists and must be stopped.

Our members also would be concerned if harvests in Canada adversely impacted the stocks in the United States. Several studies indicate that the Canadian lobster fisheries concerned are different stocks than those found in U.S. waters. Genetic and metamorphic differences confirm this fact. Canadian officials believe that their smaller size limit and management system does not impact the status of U.S. stocks. This view is not disputed by U.S. scientists. You may want to talk to Mike Fogarty from the Northeast Fishery Center about this issue.

The New England Council has not found it necessary to regulate the nationwide possession of lobsters. Five years ago the Council's Lobster Plan Development Committee did discuss the idea of applying a single size limit to all lobsters sold in the U.S. The concept was rejected and not further considered in the development of the fishery management plan for American lobster. In September, the Council's Lobster Oversight Committee discussed the issue. If the Committee decides that either enforcement or biological concerns require that further steps be taken, it can make recommendations to the Council. The Council, in turn, can offer proposals, conduct hearings, develop a record and amend its plan to deal with the problem, if there is a problem.

Jeff, it is not good public policy for Congress to short circuit the normal management process, decide what is best for a regional fishery in Washington, D.C., and legislate a last-minute change without any factual record. Our Institute has worked for over 40 years to promote the growth of the fish and seafood industry. We believe that the best way to accomplish this goal is to keep our markets open to the maximum extent possible consistent with the need to conserve our resources. Even if there were serious enforcement or biological concerns, your proposal offers an extreme solution when other options are available. Your proposal, for example, would close possible markets in dozens of states for lobsters which are perfectly legal to catch, sell and buy on the rationale that it is necessary to protect the lobsters growing in New England. But is this really true? If buyers in Hawaii, for example, are really threatening management efforts in New England, aren't there record keeping or other steps short of closing markets that we can take? Why close off markets to others when options exist to deal with potential concerns.

Keeping interstate markets open is a two-way street. Suppose, for example, that Louisiana allowed for the production of a fishery product but North Carolina did not. How would New England companies react, if they were prevented from buying and selling legitimate products from Louisiana, if North Carolina claimed it was threatening its resources and sought to close all interstate markets for all products coming from everywhere? How would the fishermen in Louisiana react?

I also am concerned that the unilateral closing of our markets without good cause will invite retaliation against our products in Canada. Last year, our industry sold over 70 million pounds of edible fish products to Canadian companies worth over $120 million, including $26 million worth of shrimp, $34 million of salmon and $5 million of king and snow crab. Your proposal could hurt fishermen and processors in these and other fisheries.

Keeping our overseas markets open is a constant struggle. Right now, the Institute is urging Canadian officials to modify Canadian suflite standards for shrimp to allow American companies to continue their exports to Canada. It is difficult enough as it is, to pursuade them to modify their stringent public health standards. The last thing we need is for Congress to take unilateral action against Canada with no clear justification.

The United States and Canada share many different species of fish. We also depend upon each other's markets. If there really is a serious enforcement or biological concern over one of our fisheries, isn't it better public policy to discuss the issue first with Canadian officials? Concerns over the management and conservation of scallops, for example, have led to many cooperative efforts on an industry-to-industry and government-to-government basis. (Give Jim Costakes a call and ask him to explain how our two industries have worked together over the years.) To our knowledge, no efforts have been made to discuss your concerns over the conservation and management of American lobster with Canadian officials.

I also have two "technical" concerns. The first relates to the enforceability of your proposal, particularly with respect to lobster that is processed into retail products. Over $100 million in different lobster products are imported from Canada. How will Customs' agents determine the size of the lobster concerned? What would be the extent of market disruption which could be caused by the delays and inquiries prompted by your size restrictions? How long would buyers have to wait for testing?

My second technical concern relates to GATT. The GATT allows for restrictive trade measures on "exhaustible natural resources" so long as "such measures are made effective in conjunction with restrictions on domestic production or consumption." While this might appear to permit the U.S. to take restrictive action, the Canadians could argue that your proposal is little more than attempt to create non-tariff trade barriers citing the fact that the smaller Canadian lobsters are from different stocks and that methods exist to identify lobsters as Canadian when they enter U.S. trade. Even if your idea is interpreted as technically permissable under the GATT, it is far from the trade policies endorsed by the Administration and the Republican leadership. The timing certainly could not be worse considering the President's recently publicized desire of establishing a free trade area with Canada. It is hard to believe how President Reagan could do anything but veto the proposal.

Jeff, given the real conservation needs of our lobster fishery and all of the posturing over imports of Canadian groundfish, I have to wonder whether your proposal is really directed at a conservation concern or whether it is another effort to gain negotiating leverage over the Canadians on groundfish before the countervail case is resolved. I know you are concerned about lobster conservation. Why don't we explore our options with the Council and get the facts on the record? I also would be glad to help you open up discussions with Canadian officials or with their industry representativen similiar to those which have occured in other fisheries.

The U.S. industry, I believe, will continue to grow if we try to keep our interstate and international markets free from unnecessary burdens, and if we continue to cooperate with our foreign partners. For these reasons I hope that you will defer further work on your legislative proposal.

Sincerely,

Richard E. Gutting, Jr.
Vice President
Government Relations

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
~~NATIONAL MARINE FISHERIES SERVICE~~
Office of General Counsel
14 Elm Street
Gloucester, Massachusetts 01930

August 12, 1985

TO : Douglas Marshall
Executive Director
New England Fishery Management Council

FROM : Joel G. MacDonald
Northeast Regional Counsel

SUBJECT: Possession of Imported Eggbearing or Short Lobsters

There has been some concern expressed recently over the importation of lobsters from Canada which are either short or eggbearing. Many have asked why possession is not flatly illegal. I thought it incumbent upon me to address this issue. The following discussion should give Council members and others an appreciation of the legal constraints which render an across-the-board possession prohibition indefensible under the Magnuson Act (the Act) and other applicable law.

The present prohibition in the lobster regulations at 50 CFR 649.7(b)(5) provides:

> "(b) It is unlawful for any person-
>
> (5) To possess, have custody or control of, ship, tranport offer for sale, sell, purchase, land, import or export any American lobster taken or retained in violation of the Magnuson Act ...." (Emphasis added.)

This prohibition is limited by its language only to lobsters that were taken or retained in violation of the Act. It does not apply to all lobsters, such as those imported from Canada or harvested in the territorial sea off New Jersey.

The reason that the prohibition is written in this manner centered around the requirement in Section 303 of the Act that all conservation and management measures be necessary and appropriate. Unlike scallops, which are largely a Fishery Conservation Zone (FCZ) resource, lobsters are mainly harvested from state waters. This raised questions as to whether a possession prohibition for illegal lobster was necessary or appropriate: necessary in that there was no other way to enforce the management measure, or appropriate in light of the predominance of the states' interest in the resource.

Looking at the largely consistent states' regulations which incorporate possession prohibitions for illegal lobsters, we concluded that a Federal possession prohibition was not absolutely necessary to enforce a principally coastal state management program. To lessen our enforcement burden, however, we settled upon a permit election process which made it a condition of the Federal permit that the permitee had to abide by the more restrictive state or Federal measures regardless of where fishing operations were conducted. This closed the so-called New Jersey loophole with respect to the FCZ.

The answer to the question of the appropriateness of an unrestricted possession prohibition to enforce the lobster management program turned on the distribution of the resource. The application of the appropriateness standard is in reality a balancing of the various interests in a particular fishery. Given the large state interest in this fishery, we concluded that it was inappropriate to enforce the Federal measures through an unrestricted possession prohibition. The lobster fishery could not meet the appropriateness standard which the scallop fishery successfully met when a possession prohibition was being considered to enforce the management program. We could not claim that the lobster resource was largely a Federal resource and that an unrestricted possession prohibition was appropriate to advance the Federal interest. To conclude otherwise would infringe on states' authority preserved by section 306 of the Act.

Other concerns about the appropriateness of the unrestricted possession prohibition were generated by the potential impacts on lobsters legally harvested in Canada and imported into the United States. For example, Canada imposes the same minimum carapace length on lobsters harvested from the Georges Bank area. However, on lobsters harvested from other areas such as the Gulf of Saint Lawrence, where water temperatures are warmer, Canada imposes a shorter minimum carapace length because the lobsters mature sexually at a smaller size. An unrestricted possession prohibition would restrict this trade in so-called "short" lobsters and raise unfair trade issues under the Governing Agreement on Tariffs and Trade (GATT). While the GATT does allow restrictions on imports for conservation or enforcement purposes, the majority opinion was that we could not meet the factual thresholds necessary to invoke these provisions: It was not for the most part a shared resource problem, as Canada imposes the same minimum carapace length as we do on the Georges Bank stock though plausible arguments could be made that removing eggbearing lobsters from the Canadian resource did impact the resource in the FCZ; and even though Canadian and United States harvested lobsters are largely indistinguishable, there is, at present, no enforcement problem due to the possession prohibitions imposed by coastal states.

The answer to the question of imposing a Federal unrestricted possession prohibition remains unchanged: we cannot. However, there is a mechanism to address those valid concerns that undersized or egg bearing lobsters harvested by domestic fishermen are finding their way outside the coastal states and beyond the reach of effective enforcement. It is the rebuttable presumption. This legal mechanism is employed when there is a rational connection between the basic fact and the presumed fact, that is, it is more likely than not that short and berried lobsters were taken in violation of the Magnuson Act. However to adopt this we would have to show that the preponderance of lobster fishermen hold FCZ licenses. As yet, the record has not been developed which would allow us to reach this conclusion and adopt the presumption. This presumption would facilitate enforcement in that a short lobster would be presumed illegal unless a person could prove otherwise.

While the rebuttable presumption is under consideration, we should not lose sight of the fact that the Lacey Act also plays an important part in enforcing the lobster management program. That Act prohibits the interstate shipment of fish and wildlife taken or retained in violation of another country's laws or of those of any state.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-17546 Filed 7-31-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-256, RM-5793]

Radio Broadcasting Services; Kill Devil Hills, NC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Joseph A. Booth to allocate Channel 281C1 to Kill Devil Hills, North Carolina, as the community's first local FM service. Channel 281C1 can be allocated to Kill Devil Hills in compliance with the Commission's minimum distance separation requirements with a site restriction of 11.6 kilometers (7.2 miles) southeast in order to avoid a short-spacing to the licensed site of Station WKTC, Channel 282C1, Tarboro, North Carolina. No site restriction would be necessary if Station WKTC is licensed at the site specified in its construction permit (BMPH-860421ID).

DATES: Comments must be filed on or before September 14, 1987, and reply comments on or before September 29, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Lawrence J. Bernard, Jr., Ward & Mendelkson, P.C., 1100 17th Street, NW., Suite 900, Washington, DC 20036 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-256 adopted July 9, 1987, and released July 21, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-17547 Filed 7-31-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-258, RM-5796]

Radio Broadcasting Services; New London and Merrill, WI

AGENCY: Federal Communications Commissions.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Goetz Communications Corporation, licensee of Station WNBK(FM), Channel 228A New London, Wisconsin, proposing the substitution of Channel 228C2 for Channel 228A at New London and the modification of its license to specify operation on the higher class of channel. In addition the proposal requires the substitution of Channel 281A for Channel 228A at Merrill, Wisconsin in order to accomplish the New London substitution. A first wide coverage area FM station could be provided to the community. Also a site restriction of 17 kilometers (10.6 miles) northest of the community is required. Concurrence by the Canadian government must be obtained for the substitution at Merrill.

DATES: Comments must be filed on or before September 14, 1987, and reply comments on or before September 29, 1987.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows:

Samuel Miller, Miller & Fields, P.C., P.O. Box 33003, Washington, D.C. 20033 (Counsel to petitioner)
Goetz Communications Corporation, Station WNBK, P.O. Box 935, New London, WI 54961 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-258, adopted July 9, 1987, and released July 23, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87-17551 Filed 7-31-87; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 649

[Docket No. 70756-7156]

American Lobster Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA issues this proposed rule to implement Amendment 2 to the Fishery Management Plan for the American Lobster Fishery (FMP), which would (1) increase the minimum legal carapace length for American lobsters; (2) prohibit the possession of V-notched female American lobster throughout the range of the stock; and (3) prohibit throughout the Nation the possession of egg-bearing or V-notched female American lobsters, or lobsters under the legal minimum size taken in violation of the Magnuson Fishery Conservation and Management Act. The intended effect is to conserve and manage the American lobster resource to promote full utilization by the U.S. fishing industry.

DATE: Comments on the proposed rule are invited until September 10, 1987.

ADDRESSES: Send comments to Richard Roe, Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, MA 01930-3799. Mark the outside of the envelope "Comments on the lobster regulations."

Copies of the amendment incorporating the environmental assessment and supplemental regulatory impact review/regulatory flexibility analysis are available from Douglas G. Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway, Saugus, MA 01906.

FOR FURTHER INFORMATION CONTACT: Kathi L. Rodrigues, Resource Management Specialist, 617-281-3600, ext. 324.

SUPPLEMENTARY INFORMATION: The FMP, which was prepared by the New England Fishery Management Council (Council), is implemented by regulations appearing at 50 CFR Part 649. The objective of the FMP is a unified regional management program for American lobsters (*Homarus americanus*), to promote conservation, to reduce the possibility of recruitment failure, and to allow full utilization of the resource by the U.S. fishing industry. Amendment 2 proposes to (1) increase the 3-3/16-inch minimum legal carapace length for American lobsters to 3-5/16 inches in 1/32-inch increments, effective January 1, 1988, 1989, 1991, and 1992; (2) prohibit the posssession of V-notched female American lobsters throughout the range of the stock; and (3) prohibit throughout the Nation the possession of egg-bearing lobsters, V-notched female lobsters, and lobsters that are smaller then the minimum size set forth in the FMP taken in violation of the Magnuson Act. Two of the largest American lobster producing States (Maine and Massachusetts) have initiated complementary laws that would be triggered by implementation of this rule.

The first proposal, to increase the minimum carapace length, is based on the scientific finding that fewer than one percent of the inshore northern Gulf of Maine female lobsters attain sexual maturity and extrude their first clutch of eggs before reaching the current minimum carapace length of 3-3/16 inches. A similar situation exists in the offshore fishery on Georges Bank and off Southern New England. Together these areas account for approximately 80 percent of the total American lobster landings. Thus, the continuing viability of the overall resource may be in jeopoardy through recruitment failure. To guard against such an eventuality, it is proposed to increase the minimum carapace length from 3-3/16 inches to 3-5/16 inches in four increments of 1/32 of an inch between January 1, 1988, and January 1, 1992. Rectangular or circular escape vents compatible with a minimum carapace length of 3-5/16 inches would be required by January 1, 1990. The exact specifications of the escape vents will be published by January 1, 1989.

The increase in the minimum carapace length to 3-5/16 inches is expected to result in an overall gain of more than 45 percent in total egg production relative to current management standards. After five years, the management program is expected to result in an overall increase in landings of 35.2 percent based upon prospects for enhanced recruitment. The specific intent of this proposal is to increase spawning potential while minimizing the short-term effects on landings. This rule would allow a 180-day grace period following the effective date of each carapace length increase for any dealer/wholesaler to dispose of any American lobsters purchased or received in the prior year which do not meet the minimum carapace length increase. The grace period recognizes the traditional industry practice of holding lobsters in pounds in order to take advantage of seasonal market opportunities.

The second proposal would prohibit the possession of V-notched female American lobsters throughout the range of the stock. For the past 40 years, Maine has required the V-notching of berried female lobsters for conservation and administrative purposes. Under Maine law it is unlawful to possess a V-notched lobster. This proposal recognizes that V-notched lobsters may migrate out of the Gulf of Maine and be encountered in the gear of fishermen who operate in the southern portion of the range of the stock.

The Council intends that V-notched female lobsters be left in the population to reproduce and add to the spawning potential. The Council recognizes that their infrequent occurence outside the Gulf of Maine may result in unintentional retention by fishermen unaccustomed to inspecting lobsters for V-notching. Accordingly, the Council has recommended that any person found in violation of this provision not be subject to a civil penalty, provided that the V-notched lobsters are viably returned to the natural environment. NOAA will consider the Council's recommendation in establishing its enforcement practices and penalty schedules, but has an obligation to enforce all regulations implementing fishery management plans.

The third proposal would prohibit throughout the Nation the possession of egg-bearing or V-notched female American lobsters, and American lobsters smaller than the minimum size set forth in the regulations taken in violation of the Magnuson Act. The Council finds that it is necessary to extend these management measures throughout the Nation to promote compliance, assure effective enforcement, and achieve the objectives of the FMP. Because management measures of the States where the American lobster resource predominantly occurs (i.e., Maine, Massachusetts, Rhode Island) will become fully consistent with the management measures of the FMP upon final promulgation of this rule, and because of the number of fishermen in these States holding permits to fish for lobsters in the exclusive economic zone (EEZ), it is presumed that any non-conforming lobsters in interstate commerce were taken in violation of the Magnuson Act. Evidence that such lobsters were harvested by a vessel not holding a permit to fish for lobsters in the EEZ and fishing exclusively within State or foreign waters would be sufficient to rebut the presumption.

This proposed rule also changes all references to the fishery conservation zone (FCZ) to exclusive economic zone (EEZ) in accordance with the 1986 amendments to the Magnuson Act (Pub. L. 99-659) and removes obsolete material in the regulations.

Classification

Section 304(a)(1)(ii) of the Magnuson Act, as amended by Pub. L. 99-659, requires the Secretary of Commerce (Secretary) to publish regulations proposed by the Council 15 days after receipt of the amendment and regulations. At this time the Secretary has not determined that the amendment these rules would implement is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the data, views and comments received during the comment period.

The Council prepared an environmental assessment for this amendment and concluded that there will be no significant impact on the environment as a result of this rule (see **ADDRESSES**).

The Council prepared a supplementary regulatory impact review/initial regulatory flexibility analysis. The Administrator of NOAA determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. A determination as to whether or not the proposed rule would have a significant economic impact on a substantial number of small entities will be made in conjunction with publication of the final rule. If found to be significant, a final regulatory flexibility analysis will be prepared and made available; otherwise, the General Counsel of the Department of Commerce will certify to the Small Business Administration that the rule will not have a significant economic impact.

This rule would have the following economic effects. The proposed rule is expected to reduce ex-vessel revenues by $4.2 million in the first year, assuming that all other factors, such as recruitment, remain constant, and increase revenues after the fifth year. There are an estimated 8,400 commercial lobstermen, both full- and part-time, not including those employed on trawlers which occasionally land lobsters. The average loss per lobsterman is expected to be about $500 in the first year of implementation. From the tenth year onward, the increase in exvessel revenues would be from $2.0 million (if there are no positive stock size-recruitment effects) to $38.6 million (if positive stock size-recruitment effects are considered). The average expected gain would be about $4,800 per lobsterman, using the average of the estimates derived from biological models.

The proposal to extend the prohibition against the landing of V-notched lobsters will initially decrease the exvessel revenues of about 2,100 commercial lobstermen in Massachusetts and New Hampshire by about $259,000, or an average of about $123 per lobsterman. However, it should be noted that V-notched lobsters might have already been voluntarily released by other lobstermen who could have landed them and that this measure is expected to increase the spawning potential of Gulf of Maine lobsters by 47 percent. In public hearings held in Portsmouth, New Hampshire, and Peabody, Plymouth, and Provincetown, Massachusetts, there was nearly unanimous support by lobstermen for extending the protection of V-notched lobsters throughout their range. This measure is not expected to have any impacts on lobstermen in the Georges Bank fishery or south of Cape Cod.

Administrative, enforcement, and paperwork and recordkeeping requirements are expected to remain unchanged, thus there are no impacts on Federal, State, or local government agencies. Lobstermen's operating expences are not expected to be affected in any way. Rather than a decrease in employment, it is expected that inshore lobstermen will initially experience a general decrease in revenues without any substantial change in employment, and then an increase after five years. Offshore lobstermen are not expected to experience any decrease in revenues; however, there is insufficient data on employment per vessel and a lack of models to determine the employment response to revenue changes in this sector.

The purpose of Amendment 2 is to enhance productivity. It is expected to increase annual lobster landings from 2.3 to 35.2 percent after five years, increase the size of the average chicken lobster by 12 percent, and increase egg production by 92 percent due to the larger carapace size and the V-notch program.

This proposed rule is exempt from the procedures of Executive Order 12291 under section 8(a)(2) of that order. Deadlines imposed under the Magnuson Act require the Secretary to publish this proposed rule 15 days after its receipt. The proposed rule is being reported to the Director, Office of Management and Budget, with an explanation of why it is not possible to follow the procedures of the order.

This rule does not contain a collection of information requirement for the purposes of the Paperwork Reduction Act.

The Council determined that this rule will be implemented in a manner that is consistent, to the maximum extent practicable, with the approved coastal zone management programs of Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, Delaware, Maryland, and New Jersey. This determination has been submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act.

List of Subjects in 50 CFR Part 649

Fisheries, Reporting and recordkeeping requirements.

Dated: July 29, 1987.

William E. Evans,

Assistant Administrator For Fisheries National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR Part 649 is proposed to be amended as follows:

PART 649—[AMENDED]

1. The authority citation for 50 CFR Part 649 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In § 649.2, the definition of *Fishery conservation zone (FCZ)* and *V-notch conservation area* are removed and a new definition for *Exclusive economic zone (EEZ)* is added in alphabetical order to read as follows:

§ 649.2 Definitions.

* * * * *

Exclusive economic zone (EEZ) means the zone established by Presidential Proclamation 5030, dated March 10, 1983, and is that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

3. In § 649.7, paragraph (a)(5) is revised and a new paragraph (c) is added to read as follows:

§ 649.7 Prohibitions.

* * * * *

(a) * * *

(5) To possess any V-notched female American lobsters throughout the range of the stock;

* * * * *

(c) The possession for sale of egg-bearing female American lobsters, V-notched female American lobsters, or American lobsters that are smaller than the minimum size set forth in § 649.20(b) of this part, will be *prima facie* evidence that such lobsters were taken or imported in violation of these regulations. Evidence that such lobsters were harvested by a vessel not holding a permit under this part and fishing exclusively within State or foreign waters will be sufficient to rebut the presumption.

4. In § 649.20, paragraphs (b) and (c) are revised and paragraph (f) is removed, to read as follows:

§ 649.20 Harvesting and landing requirements.

* * * * *

(b) *Carapace length.* All American lobsters landed on the dates set forth must have a minimum carapace length as follows:

Effective dates:	Minimum carapace length:
January 1, 1985, through December 31, 1987.	$3\frac{3}{16}$ inches.
January 1, 1988, through December 31, 1988.	$3\frac{7}{32}$ inches.
January 1, 1989, through December 31, 1990 [1].	$3\frac{1}{4}$ inches
January 1, 1991, through December 31, 1991.	$3\frac{9}{32}$ inches
January 1, 1992, and beyond	$3\frac{5}{16}$ inches.

[1] By January 1, 1990, escape vents in traps must be compatible with a minimum carapace length of $3\frac{5}{16}$ inches.

(c) *Mutilation.* It is unlawful for any person to remove meat or any body appendages from any lobster before landing, or to have in possession on board any lobster part other than whole lobsters.

* * * * *

5. In § 649.21, paragraphs (c)(1), (2), and (3) are redesignated (c)(1)(i), (ii), and (iii); paragraph (c) introductory text is designated (c)(1), an initial phrase is added, and the word "All" is set in lower case; a new paragraph (c)(2) is added; the text of paragraph (d) is designated (d)(1); and a new paragraph (d)(2) is added, to read as follows:

§ 649.21 Gear identification, marking, and escape vent requirements.

* * * * *

(c) *Escape vents.* (1) Until January 1, 1990, all * * *

* * * * *

(2) On January 1, 1990, rectangular or circular escape vents compatible with a minimum carapace length of $3\frac{5}{16}$ inches will be required.

(d) * * *

* * * * *

(2) Following the effective date of each carapace length increase set forth in § 649.20(b) of this part, any dealer/wholesaler will have 180 days in which to dispose of any lobsters purchased or received in the prior year which do not meet the new minimum carapace length increase.

§§ 649.4, 649.7, 649.20, 649.21, and 649.22 [Amended]

6. In addition to the amendments set forth above, the initials "FCZ" are removed and the initials "EEZ" are added in their place in the following places:

§ 649.4(a)(1), (2), and (3);
§ 649.7(a) introductory text and (b)(2);
§ 649.20(a)
§ 649.21(a) introductory text, (b) introductory text and (b)(4)(i), (ii), (iii), and (iv), and (c) introductory text; and
§ 649.22(b)(1).

[FR Doc. 87-17576 Filed 7-31-87; 8:45 am]

BILLING CODE 3510-22-M

H.R. 4643

For the relief of the Office of the Sheriff of Marion County, Indiana

No statements submitted.

H.R. 4677

To treat tobacco grown in the United States and processed in a Caribbean Basin country as eligible for duty-free treatment

STATEMENT OF
THE CIGAR ASSOCIATION OF AMERICA
IN SUPPORT OF H.R. 4677

June 17, 1988

The Cigar Association of America strongly supports H.R. 4677 which was introduced by Congressman Pickle on May 24, 1988. The bill would treat tobacco grown in the United States and processed in a Caribbean Basin beneficiary country as eligible for duty-free treatment upon its return to the customs territory of the United States. We believe the bill makes good sense both for policy reasons and for technical reasons.

Consistent with Caribbean Basin Policy

The bill would further the national interest in the economic development of the Caribbean Basin which is the objective of the Caribbean Basin Economic Recovery Act. Experience with that Act has shown that there are a limited number of avenues for economic development in those countries. The processing of cigar tobacco and cigar production are among the comparatively few activities with potential for significant contribution to the economic stability of the region.1/ Jamaica, Honduras and the Dominican Republic, for example, have come a long way in filling the void for premium imported cigars that was created when trade with Cuba was embargoed in the early 1960's. Cigars from beneficiary countries are already eligible for duty-free treatment under the Caribbean Basin Economic Recovery Act.

The processing of American cigar tobacco for use in American-made cigars should also be encouraged, not only because it would be a natural complement to cigar production in those countries, but also because it would help U.S. cigar manufacturers, as well as U.S. cigar tobacco growers, in making their products more competitive in the U.S. and overseas markets. In that connection, American-made cigars tend to concentrate more on the lower and middle price ranges.

The Cigar Association represents the vast majority of manufacturers and importers of cigars sold in the U.S. market. Its members also include leaf dealers. Cigar consumption has been declining in the United States for well over a decade. U.S. cigar consumption in 1987, for example, was about 2.8 billion cigars, whereas consumption in 1972 was 7.2 billion cigars. In part this has been the result of price sensitivity in the marketplace. Price increases, driven by production cost increases, tend to be resisted by consumers who may reduce the quantity purchased as a result. Therefore, savings in tobacco processing costs can help to maintain domestic cigar production and the jobs that go with it.

Technical Correction of Unintended Result

Section 213(a) of the Caribbean Basin Economic Recovery Act contains a rule of origin for eligible products designed "to prevent pass-through operations in which the work performed is of little economic benefit to the Caribbean and constitutes

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1/ "Although many countries in the region have attempted to diversify their exports, the region still depends on the export of relatively few products." Annual Report On The Impact Of The Caribbean Basin Economic Recovery Act On U.S. Industries And Consumers - Second Report 1986, USITC Pub. 2024 (September 1987), p. 5.

avoidance of U.S. duties".[1] There was particular concern by the Ways and Means Committee that such a rule was needed to prevent foreign tobaccos (i.e., from non-Caribbean sources) from being routed through beneficiary countries without substantial transformation and receiving duty-free treatment. This is evident from the Committee Report which cites three different examples of tobacco processing that would be disqualified:

> "... merely blending foreign and Caribbean tobacco, merely chopping or thrashing foreign tobacco without further manufacturing, or simply performing alterations of wrapper tobacco (as under item 806.20 of the TSUS) by stemming or cutting ..."

It is clear that the anti-pass-through provision was intended to prevent abuse or circumvention of U.S. duties with respect to foreign tobacco. Unfortunately, the rule of origin was drawn in such a way as to prevent American-grown tobacco from being processed in a Caribbean Basin country and receiving duty-free treatment upon its return. It appears that this result was not foreseen and not intended. Had Congress considered this matter at the time, we believe it would have provided for duty-free treatment, since the total value of such tobacco is attributable solely to the United States and to a beneficiary Caribbean country. H.R. 4677 would correct that oversight.

The bill would also apply to American-grown tobacco that is currently processed in a beneficiary country under TSUS Item 806.20. Where imports under TSUS Item 806.20 are concerned, the normal duty is imposed on the value of processing performed abroad, rather than on the value of the product itself. This means that where American-grown tobacco is processed in a Caribbean Basin country, essentially the entire dutiable value originates in that country. Nevertheless, such tobacco is effectively denied duty-free treatment under the Caribbean Basin Economic Recovery Act, because of the operation of the 35% value-added test under the rule of origin. The reason is that the 35% test is calculated on the basis of the value of the article itself, instead of the dutiable value. H.R. 4677 would also cure this technical anomaly.

For the reasons set forth above, we urge favorable consideration of H.R. 4677.

Norman F. Sharp
President
Cigar Association of America, Inc.
Washington, D.C.

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[1] H. Rep. No. 98-120, Report of the House Ways and Means Committee to accompany H.R. 2973, 98th Cong., 1st Sess. (May 13, 1983) at p. 13.

H.R. 4679

To amend the Appendix to the Tariff Schedules of the United States to suspend the duties on certain infant nursery monitors and intercoms

Before the
House Ways and Means Committee's
Subcommittee on Trade

STATEMENT OF GERICO INC. IN SUPPORT OF H.R. 4679, A BILL TO AMEND THE APPENDIX TO THE TARIFF SCHEDULES OF THE UNITED STATES TO SUSPEND THE DUTIES ON CERTAIN INFANT NURSERY MONITORS AND INTERCOMS

Gerico Inc., a subsidiary of Huffy Corporation, is pleased to file this statement in support of H.R. 4679, the bill introduced by Representative David Skaggs which would provide for the temporary suspension of the regular customs duties on certain infant nursery monitors and intercoms. Gerico also strongly supports S. 2398, an identical bill introduced by Senator William Armstrong.

Gerico, based in Denver, Colorado, is a leading manufacturer of baby and juvenile products. The company employs approximately 400 people at facilities in three separate Colorado locations. The vast majority of the company's products are manufactured in these U.S. facilities. As a matter of corporate policy, the company imports only those parts of its total product line that it cannot manufacture domestically and sell at a competitive price.

One of Gerico's leading products is a line of infant nursery monitors and intercoms sold under the Gerry brand. These are small radio transmitters and receivers that allow a parent to monitor an infant or small child's activity from another location in the home. The intercom device actually consists of a pair of transceivers — that is, transmitter/receiver combinations — that permit the parent not only to monitor, but to converse with the infant or child when necessary. None of the companies currently selling these products in the United States — which include Fisher-Price, View-Master Ideal, and Playskool, in addition to Gerico — manufacture the products domestically; all are manufactured in various Far Eastern countries. Industry surveys put the 1987 U.S. market for these devices at approximately one million units with a wholesale value of $28 million. The retail sales prices for the devices range from $30 to $50.

The nursery monitor that Gerico imports is assessed duty on its three individual components, which consist of a radio transmitter, a receiver, and an electrical adapter. The receiver and transmitter, which account for the vast majority of the complete unit's value, bear regular duty rates of six percent *ad valorem*. Gerico's nursery intercom, which consists of two transceivers and an electrical adapter, both also dutied separately, will be assessed regular duties of approximately 2.4 percent when the company begins importing the unit later this year.

By its terms, H.R. 4679 would suspend the duties only on "*infant nursery* monitors" and "*infant nursery* intercommunication devices" consisting of designated components. Clearly, not every device consisting of a radio transmitter, an electrical adapter, and a radio receiver classifiable under the specified TSUS numbers, or every article consisting of a pair of transceivers operating within the specified frequencies and packaged with an electrical adapter, will qualify for duty-free treatment under proposed TSUS items 912.50 and 912.51, respectively. Rather, the proposed statutory language would confine the duty suspension to monitors and intercommunication devices *chiefly used* as *infant nursery* monitors and intercoms, respectively. Gerico believes that it and other U.S. companies importing these devices should be able to demonstrate readily that their products are, in fact, commonly or usually used to monitor (or monitor and communicate with) children. 1/ This should be reasonably obvious from the trade dress of the article, but could in any event be readily demonstrated by evidence of advertisements, patterns of distribution, etc.

1/ The use of the term "infant nursery" should not be taken as requiring proof that the monitoring half of the unit is ordinarily placed in a particular room in the home (*i.e.*, the nursery). Rather, the modifying phrase "infant nursery" should be recognized as limiting the eligible products to intercoms and monitors marketed for use in supervising young children in and about the home.

The most common subjects of temporary duty suspension legislation have been chemicals and other materials used as inputs by U.S. manufacturing industries. The principal rationale of such duty suspension bills is that elimination of the duties on raw materials or production components not manufactured in the United States promotes U.S. manufacturing of finished products containing those inputs. Such a rationale does not apply in the case of H.R. 4679, inasmuch as nursery monitors and intercoms are uniformly imported by Gerico and its competitors in finished condition, ready for sale to the consumer.

Nevertheless, Gerico believes that the temporary duty suspensions that H.R. 4679 would implement are in the public interest. First, elimination of these unnecessary duty costs should allow Gerico and other companies to reduce their retail prices for these devices. This should increase sales of the nursery monitors and intercoms — to the benefit of Gerico, competing U.S. companies and their respective workers — and provide consumers with increased value for their purchase dollars. Congress adopted this rationale in passing a series of bills that have temporarily suspended the regular duties on clock radios. Like nursery monitors and intercoms, clock radios are not manufactured in the United States. In order to benefit U.S. consumers and companies marketing clock radios imported in finished condition, Congress suspended the regular duty on such products in 1983 and again in 1984. 2/ While the principal U.S. supplier of clock radios was only able initially to provide statements of its intention to lower its prices to retailers in response to the elimination of the duty, the company was ultimately able to demonstrate that the duty suspension contributed to retail price declines between the initial suspension of the duty in 1983 and its first renewal the following year. Obviously, Gerico cannot speak for the entire U.S. industry, but the company is confident that it, for its own part, will be able to justify renewal of the temporary suspension after its expiration in 1992 on the basis of a clear pattern of cost savings passed on to the U.S. consumer.

Moreover, unlike clock radios, nursery monitors and intercoms serve an important safety function. Gerico is continually receiving letters and calls from owners of its monitors attesting to the devices' being instrumental in allowing parents to come to the aid of their children in cases of fire, break-in, choking and other hazards. Samples of these letters, with the names and addresses of the senders deleted to protect their privacy, are attached. Nursery monitors and intercoms can be credited with an important role in the improvement of child care and safety. To the extent H.R. 4679 would allow more of these devices to reach American households at reduced cost, the bill will doubtless contribute to the safety of many more children in the future.

In conclusion, Gerico urges the Subcommittee on Trade to report H.R. 4679 favorably. The products covered by the legislation are simply not manufactured in the United States, and there is therefore no U.S. industry for which tariff protection is warranted. Elimination of this unnecessary protection would be in the best interests of the U.S. companies marketing these products and American consumers. In short, H.R. 4679 is in the public interest, and Gerico looks forward to its consideration and enactment at the earliest practicable time.

Respectfully submitted,

Michael R. Kershow

MICHAEL R. KERSHOW

Counsel to Gerico Inc.

2/ See Pub. L. No. 97-446, § 145, 96 Stat. 2329, 2343 (1983); H.R. 98-573, § 161, 98 Stat. 2948, 2965 (1984). See also Miscellaneous Tariff and Trade Bills: Hearings and Written Comments Before the Subcomm. on Trade of the Comm. on Ways and Means, 98th Cong., 1st & 2d Sess. 12-14, 229-30 (1984). A provision in H.R. 3, the pending omnibus trade bill, would renew this suspension through the end of 1990.

Dear, Mr. Wilkey, July 86

I'am a 25 year old mother of a 2 year old (beautiful) daughter! Asnice The reason I'am writting you this letter is to let you know that I truly believe that your "baby intercom" saved our lives. On Friday June 13 at 11:00 pm my daughter & I were alone in our house. a man was breaking in thru our daughters window, the intercom was luckily in her window. Therefor I heard the man & was able to stop him. Unfortunatley they didn't catch him, but at least he didn't get us. For this we truly thank you.

Garland Texas
75042.

RECEIVED APR 20 1988

Dear Gerry Inc. April 16 1988

I want to write and thank you for such an excellent baby product. You see 3 days ago we almost lost our 4 year old son. He had slipped feet first off the top bunk catching his neck between the bed and guard rail strangling him. I heard him moaning thru our 6 week old daughter's monitor. Had I not had the monitor he would have died. He is now in Good Conditi and will suffer no permanent damage Praise the Lord!!! As soon as I can afford to I am buying another monitor for my two Sons room. I'd rather be safe than sorry. I'm sold on your product and will recommend it to those I know. With great thanks!

Sincerely —

Gerry Baby Products
12520 Grant Drive
Denver, Colorado 80233

RECEIVED APR 12 1988

Dear sirs:

I would like to thank you and praise you on your baby monitor. I purchased one about a month ago when I was expecting my 1st baby. It was the best purchase I ever made.

We live in a trailer and my husband thought that a monitor was unnecessary since everything is in such close quarters. You usually can hear what is going on in the next room at any time. I use my monitor day and night. One day my baby was asleep in his crib. During his sleep he vomited and began choking. The sounds, he was making, were so quiet that there was no way you could have heard them without the monitor. Without the monitor I never would have reached him in time (He was already blue.) and he would probably have died.

Your product saved my baby from brain damage and death. I really can't thank you as much as I should. I owe you one. Thanks so very much.

Sincerely,

Nacogdoches, TX 75961
February 5, 1988

Gerry Baby Safetronics
Service/Warranty Centers
12520 Grant Drive
Denver, Colorado 80233

Dear Sirs;

We received your monitor as a baby gift when our twins were born in October 1987. we want to let you know how pleased we are with your monitor. It saved our family and house. The night after Thanksgiving at 4:00 a.m. our house caught on fire due to bad wiring in the house. The fire started in the babies room in the socket where the transmitor was plaugged in. The transmitor went out when the wire burnt in half therefor I got a static noise on the receiver. We got up and found a fire in the wall. We grabbed the babies and our 31/2 yr. son, called the fire department and was out of the house and in the front yard before the fire alarms went off. The Fire Chief latter told us if we had waited for the fire alarms we would have lost 60-70% of our house and possibly could not have gotten to the babies.

We have since bought a second monitor because it seems that this one messed up when the wires burnt. It does not work as well as it use to. You can hear the babies in the room and not on the monitor. Please check this for me and if it can be fixed please do so.

At first we did not believe that it would be very good. But as time passed we learned how sensitive it is. We could hear the babies breathing we could even hear the door scrap across the carpet when we would go in to check on them.
We do not trust the monitor a 100% I still feel I have to check on them often , but it is an added comfort to know that when I need to fold clothes or wash dishes the monitor is there when I'm out.

Your product saved our family and our house. Thank you.

Sincerely,

H.R. 4683

To suspend for 3 years the duty on ADC-6

No statements submitted.

H.R. 4684

To suspend for 3 years the duty on Diflunisal

No statements submitted.

H.R. 4696

To suspend for 3 years the duty on Norfloxacin

No statements submitted.

H.R. 4697

To suspend for 3 years the duty on amiloride hydrochloride crude

No statements submitted.

H.R. 4698

To suspend for 3 years the duty on D-carboxamide

No statements submitted.

FOR IMMEDIATE RELEASE
FRIDAY, AUGUST 5, 1988

SUBCOMMITTEE ON TRADE #22
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
1102 LONGWORTH HOUSE OFFICE BLDG.
WASHINGTON, D.C. 20515
TELEPHONE: (202) 225-3625

THE HONORABLE SAM M. GIBBONS (D., FLA.), CHAIRMAN, SUBCOMMITTEE ON TRADE, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, ANNOUNCES REQUEST FOR WRITTEN COMMENTS ON A CERTAIN TARIFF AND TRADE BILL

The Honorable Sam M. Gibbons (D., Fla.,), Chairman of the Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, today announced that the Subcommittee on Trade is requesting written testimony for the record from all interested parties on the miscellaneous trade bill listed below. This bill was jointly referred to the Committees on Ways and Means and Foreign Affairs.

A determination regarding further scheduling of public hearings or other Subcommittee action on this bill will not be made until after the close of this public comment period.

The trade bill on which written testimony will be received is:

H.R. 3112 (Mr. Miller of California): To prohibit the importation into the United States of items made by child labor which is in violation of internationally recognized child labor rights.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Persons submitting written comments should submit six (6) copies by the close of business, Friday, August 19, 1988, to Robert J. Leonard, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Room 1102 Longworth House Office Building, Washington, D.C. 20515.

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Each statement presented for printing to the Committee by a witness. any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will **not** be printed. but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be typed in single space on legal-size paper and may not exceed a total of 10 pages.
2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead. exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.
3. Statements must contain the name and capacity in which the witness will appear or. for written comments. the name and capacity of the person submitting the statement. as well as any clients or persons. or any organization for whom the witness appears or for whom the statement is submitted.
4. A supplemental sheet must accompany each statement listing the name. full address. a telephone number where the witness or the designated representative may be reached and a topical outline or summary of the comments and recommendations in the full statement. This supplemental sheet will not be included in the printed record.

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H.R. 3112

To prohibit the importation into the United States of items made by child labor which is in violation of internationally recognized child labor rights

Summary of Testimony
on Tariff and Trade Bill H.R. 3112
Submitted to The Honorable Sam M. Gibbons (D. FL)
Subcommittee on Trade, Committee on Ways and Means
U.S. House of Representatives

Submitted by William W. Treanor, Executive Director
and Michelle Reynolds, International Program Officer
The American Youth Work Center
Washington, DC

August 19, 1988

Mr. Chairman:

Thank you for the opportunity to provide written testimony on H.R.3112 which prohibits the importation into the United States of items made by child labor in violation of internationally recognized child labor standards. The American Youth Work Center has, through its publications and a recent forum on child labor in the third world, sought to draw public attention to this issue.

We believe that most American consumers would support and welcome the opportunity to avoid purchasing products which are made under dangerous and exploitative conditions. Therefore we support the enactment of H.R. 3112 provided that the burden for enforcement is placed on the importer, not on the government.

The Issues

Children are incorporated into a variety of different employment arrangements around the world as waged laborers in factories or mines, street vendors or seasonal migrant workers. They may work full time or part time. The ages of many of these working children are well below the minimum legal age required for employment in the countries in which they live. They receive wages that do not come close to those of adults doing comparable work, and often their working conditions are much more harsh than adults would tolerate. Many of them work to support their families under conditions that place too heavy a burden on them, endangering their health, safety and general welfare and often prohibiting them from getting an education.

These children are not few in number. The United Nation's International Labor Office estimates that there are between 50 and 200 million child workers in the world today.[1] The vast majority of them live in the third world. Although most countries have legislation outlawing child labor below a certain age, (usually between 14-16), such legislation is not properly enforced. As such, child labor in the third world is widespread and can be found in unorganized sectors of agriculture and industry, in back streets, alleys, or tucked away in rural villages. Governments will often try to hide or play down the extent of the problem in their countries because of its embarassing nature. Yet by not fully recognizing the problem or pretending that it does not exist, governments provide no mandate to solve it. The number of child laborers continues to grow.

Many of the products made by these children are exported to countries in the "developed" world. For example, carpets made in India or Morocco by children who earn $40.00 dollars each for three months work can be sold in large department stores in New York or London for thousands of dollars. Employers will employ young children in the carpet industry precisely because their labor is so cheap and accessible. In 1986, export profits made by handmade carpet sales in India amounted to $192 million.[2]

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[1] International Labor Office, Child Labour: A Briefing Manual, International Labor Office publications: Geneva, 1986.

[2] Kristin Helmore, The Christian Monitor Special Report, Children in Darkness, 1987.

This particular example points to the profitablity involved in employing child labor. It is not hard to find other examples of exploitation in industries such as glass making, mining and clothes manufacturing.

The American Response

It is the opinion of the American Youth Work Center that the American public has a responsibility to: first, become aware of the problems associated with third world child labor, and second, support government action which will prohibit the importation into the United States of items made by exploited child labor.

It is generally recognized that poverty is at the root of child labor in third world countries. But the question asked in forums such as Defense for Children International, UNICEF and among youth advocates in the developed, as well as in the third world, is whether poverty and exploitation are inextricable facts of life. We believe that they are not. We can work toward eliminating exploitation despite the persistence of poverty, and we must begin at home. By creating a never ending demand for cheap imported goods, Americans have perpetuated the problem of third world child labor. American business people and consumers need to be made aware of the issue of child labor. Public notice should be made available to all Americans identifying which products are made by exploited child labor.

We support H.R. 3112, sponsored by Representative George Miller of California, and add the following: It should be the responsibility of United States' importers to monitor goods made by child labor in violation of internationally recognized child labor rights.

Finally, Mr. Chairman, we want to draw the attention of the Subcommittee to the fact that on August 2, 1988 the American Youth Work Center, Youth Communication and Children's Express sponsored a forum on third world child labor. The purpose of this forum was to increase public awareness about the problems of third world child labor and to bring together youth advocates, journalists, Congressional staff, and business representatives to discuss what the appropriate American response should be to this problem. Probing questions were asked of the two expert panels by teen journalists from Youth Communication and Children's Express.

Over the next several months, the teen journalists from Youth Communication and Children's Express who had the opportunity to question the panelists on the issues of child labor will write stories to be published in high school and national newspapers. These stories will continue to provide a forum for discussion about third world child labor and the American response.

We will apprise these young journalists and others of the actions taken on HR 3112 by the Subcommittee on Trade. We hope that we can inform them that the House Committee on Ways and Means has reported out a bill which will prohibit American participation and profit in child labor practices in violation of accepted international labor standards.

JOINT STATEMENT ON H.R. 3112

SUBMITTED BY
MICHAEL JUPP
Executive Director of
DCI--USA
and
MICHAEL PIRAINO
on behalf of
THE CHILDREN'S RIGHTS INTERNATIONAL NETWORK

H.R. 3112 is a timely and laudable effort to approach the problem of exploitive child labor in the world today. It is a problem of major proportions; in India alone, there are over 17 million child workers, many of them producing goods for export to the industrialized world. As a major market for these goods, the United States has a responsibility to assist the process of finding practical solutions. While we will suggest some alternative approaches, we also wish to make clear our support for the efforts of the bill's sponsors.

Both of the individuals submitting this statement have extensive experience with the issues surrounding child labor. The Children's Rights International Network has gathered and analysed data on children's rights, especially in Asia, for several years. Defense for Children International--USA has been in the process of creating an extensive database on the rights of children, much of it focussing on child labor issues. Although not an exhaustive picture of working children, the work thus far does present a comprehensive picture of the complexity of child labor issues. From that work, we have drawn a few conclusions relevant to H.R. 3112:

1. *Child Labor is not a simple issue.*

The attitudes of compassionate people vary among regions and countries, and according to the industrial sector involved. In adopting its Child Labour Act in 1986, India had to chose between equally compelling arguments on how to approach the problem. The result was a three-pronged approach which holds at least the promise of incremental improvements.

One effect of the multiplicity of legitimate views on child labor can be disagreement on the appropriate minimum age for employment. India, for example, has generally set that age at 14. Determining an internationally acceptable minimum age is therefore problematic. Nor is that deceptively attractive solution sufficient. If legislation encourages us to believe that the problem of child labor can be solved in a simple way, we risk sacrificing the needs of children who will continue to work. Even the ILO conventions on child labor acknowledge the need to make gradual progress toward ending child labor, while working now to improve the condition of children who work because they have to.

Those children have other needs. They need better nutrition. They need an education which responds to their circumstances. They need to be protected from onerous working conditions, such as long working hours. They need social security. Provisions could be made, for example, for USAID to meet some of these needs from existing budgets. These resources might provide non-formal education schemes for working children and alternative employment training programs in cooperation with local communities and governments. We believe mechanisms for achieving such goals could be built into H.R. 3112.

2. *The legislation should focus on the exploitation of children*

Not all work by children is exploitive. In fact, some of the most effective programs for street children--many funded from United States private voluntary organizations--are based on work and work-training schemes. H.R. 3112 in its current form would prohibit the importation of their products.

In many countries, particularly in rural areas, it is also traditional for children to work beside their parents. Unless there are elements of exploitation, it is unrealistic to expect governments to take action against this type of child labor.

We do know, however, that children are often exploited in the workforce because their families are poor and because children are a source of cheap and docile labor. In some areas, 90% of working children work because of their parents' economic circumstances. In 80% of the cases, the parents themselves put the children to work. Given such figures, it is unrealistic not to expect serious consequences to both family and child if that employment ends suddenly.

For these reasons, child advocates, particularly in Asia, have suggested an emphasis on gradual reductions in the extent of child labor, combined with strong measures to protect the most vulnerable children, and the establishment and enforcement of standards for the welfare and safety of those children who will continue to work. The bill as currently drafted does not adequately address these concerns.

Other forms of child exploitation are inevitably tied to child labor as well. The absolute prohibitions envisioned by the bill, if effective, could have serious negative effects on the welfare of children. If, for example, the bill were effective in preventing child employment in the industrial sector, some of them would be exploited in other ways, some of them sexually. The commercial sexual exploitation of children--whether it be prostitution, pornography, or sex tourism--is both a moral and an economic issue, and can not be ignored in considering the question of child labor.

3. *Legislation should take a constructive, not a purely punitive approach*

Even where national legislation creates certain rights for children, the problem is more often the inability to enforce those rights. If the goal of H.R. 3112 is to make enforcement more effective, then some more constructive approaches might be added. The bill could, for example, provide incentives to countries which show their willingness to comply with international standards. This might assist them in setting up factory inspection schemes, child rescue homes, and for monitoring mechanisms not dependent on outsiders.

More than one enforcement mechanism may be needed. It is essential that the Department of State investigate both children's rights legislation and enforcement processes. That alone is not enough, however. The Omnibus Trade Bill (H.R. 3) contains an administrative mechanism to allow individuals and organizations to raise questions concerning denials of worker rights. Such mechanisms can work in the child labor field. It is not inherently difficult to identify classes of goods produced by child labor. DCI-USA, for example, has a network of contacts who have been active for years in such investigatory work. It may, however, be impractical to rely on U.S. government agencies to do this. In-country investigators are on the scene and have access to information which could not be available to any outsider.

The bill could provide incentives for such private cooperative efforts to identify exploitive child labor. Importers can be brought into this cooperative effort. DCI-USA has already started exploring the possibility of involving associations of importers, and the response has been encouraging. The goal of this cooperative effort would be to create a code of ethical conduct incorporating self-policing mechanisms.

The legislation could encourage further explorations along these lines. It might, for example, recognize cooperative private certification schemes which would assure purchasers that the products were not made by exploiting child labor. To require such a certification on all imported products would be impractical, and likely to lead to certifications based on faith, not knowledge. We believe, however, that a voluntary scheme would increase the sense of responsibility on the part of importers.

Although criminal and civil penalties ought to be included in the Bill, we suggest a mechanism for reinvesting at least a portion of any fines and penalties into services for the children themselves. This would help avoid the possibility of the legislation placing children in an even more vulnerable position.

If our goal is to prevent economic exploitation by denying a market to goods produced with child labor, we believe there is a mechanism which would do that even as it helps the children. The legislation could incorporate a tariff mechanism to eliminate the price differential between goods produced through the exploitation of cheap child labor and those produced by adults paid prevailing wages. A duty might be imposed on goods or classes of goods shown to have been produced through child labor with a portion of the duty earmarked for services to the children. This approach would be more sensitive to the situation of working children and more effective by:

•reducing the financial incentives for using children exploitatively in the work force.

•providing funds which could be invested in services for those children who do work

•making the legislation less punitive and more sensitive to Third World concerns

•creating an inducement for private cooperation and action on child labor concerns.

4. *It is essential to have a wider process of consultation and public hearings on the child labor issue*

Many Asians, including children's advocates, will view the Bill in its present form as a punitive measure. Such resentment has frequently been expressed to us. It is not difficult to see why. Absolutely prohibiting importation strikes hard at countries in which children and young people under 15 may be as much as one fourth of the work force. While some such prohibition may be useful, we believe it would be wiser and more effective to approach it after consultation with children's advocates and other representatives from the countries affected. It is difficult to give a complete picture of the complex situation of working children only by viewing the scene from the North American perspective.

This wider consultation could be the start of efforts to encourage a broader international consensus on action for working children. It could assist the adoption and implementation of the proposed United Nations Convention on the Rights of the Child, and might also encourage some child labor protections to be written into the GATT. Although it may not be easy at the moment to define precise "internationally recognized child labor rights," this bill and the process which might accompany its adoption could be a major start toward that definition.

DCI--USA is prepared to assist the subcommittee and its staff in this consultation process.

[THE ATTACHMENTS TO THIS STATEMENT ARE BEING RETAINED IN THE COMMITTEE FILES.]

STATEMENT OF PHARIS HARVEY, VICE PRESIDENT INTERNATIONAL LABOR RIGHTS EDUCATION & RESEARCH FUND

In 1986, the International Labor Organization (ILO) reported the number of working children under the age of fifteen is between 100 and 200 million worldwide. In some Asian countries, children constitute as much as 11% of the workforce. Worse yet, the percentage is 17% in parts of Africa, while there are places in Latin America where it is reported that 26% of all children under the age of fifteen are working.

Millions of children, especially in developing countries, can be found working in such dangerous industries as mining, metal works, glass and fireworks manufacturing, commonly without any protection or awareness of the health risks. Often these children are victims of burns and cuts many are maimed and left miserably handicapped; and many more contract diseases that lead to death or to incapacitation for life. Last year, Cox Newspapers in a series called "Stolen Childhood" and The Christian Science Monitor in a series called "Children in Darkness" documented in detail the heart-wrenching consequences and scope of global exploitation of children in the workplace.

Here are a couple examples of what they found:

> "In Thailand, thousands of young peasant girls work seven days a week inside hole-in-the-wall Bangkok factories called 'shophouses' for less than seven cents an hour."

> "Shadab is 9. Since he was 6, he has spent 12 hours a day, six days a week, squatting in semidarkness on damp ground, polishing little pieces of metal on a high-speed grinding wheel. In the lock factory where he works, the gloom is only broken by a few narrow shafts of light entering through holes in the brick walls, and by a single light bulb. The air is visibly, palpably thick with metal dust, the temperature about 120 degrees F. The bare floor is damp with acid that sloshes from big vats onto the ground.
>
> The factory where Shadab works is in Abigash, 80 miles southeast of New Delhi. It employs nine people, five of whom are under 12. The adults are paid more than three times as much as the children, though many of their tasks are the same."

The misery associated with international trading of products made by exploited children goes on out of sight and, almost always, out of mind. Once in a great while, the well-to-do American consumer is jolted upon learning that the beautiful, hand-knotted rug that he bought for $499 at Macy's was made by 7-year-old Moroccan girls who are lucky if they are paid 90 cents a day.

That children are working and sometimes must, is unacceptable, but that they should be forced to work under conditions demonstrably dangerous to their health and safety is reprehensible and must be stopped in all countries, regardless of differing stages of development. A 1987 World Health Organization (WHO) study has found that compared with adults, children tend to react differently and more severely, when exposed to chemical substances and physical agents at work. There is a growing body of research evidence indicating that the exposure limits recommended for adult workers are not adequate for protecting children. Surely, no children should be exposed to extremely toxic chemicals or to dangerous physical agents like ionizing radiation.

To hear some people talk, we should not be disturbed that imports entering the American marketplace are sometimes made by children working under barbaric conditions. We are told nothing can be done to stop the suffering and, besides, it is none of our business. Still others, knowing in their hearts that they are profiting from something very wrong, seek to forestall U.S. action and tell us to wait for multilateral action. Some of the same bad actors then proceed to quietly frustrate any consensus for international action at the GATT or elsewhere.

Like Congressman George Miller and the co-sponsors of H.R. 3112, we are opposed to the exploitation of children in the workplace. Moreover, we do not believe it is fair to ask American workers to compete with imports made by brutalized children slaving away under medieval working conditions.

Sadly, the number of children working and the scale of human suffering increase every year, despite the existence of more than twenty ILO conventions on child labor and innumerable pieces of high-sounding national legislation in many countries which purportedly prohibit the employment of children under the age of fifteen. Something else clearly must be done to effectively stop the exploitation of children in the workplace.

Congressman Miller has identified for all of us the key to effective action -- drying up trading markets for goods made by exploited children.

America should push for the rules of international trade to be changed to pointedly discourage child labor, especially in industry. The basic human rights of children deserve at least as much GATT protection as is already provided to the intellectual property rights of businessmen and to the capital investments of financiers. Simple fairness and due regard for American workers require that we settle for nothing less.

But we also recognize that securing international agreement to outlaw trade in goods made by exploited children will not be easily attained. While the need to act is widely recognized, the political will to do so has been sorely lacking. That is precisely why the U.S. should break the long stalemate and move expeditiously to enact legislation to prohibit imports made by children exploited in the workplace.

In shaping U.S. trade policy to discourage the exploitation of children in the workplace, we suggest a few straightforward guidelines. First, it should be acknowledged that child labor cannot practically be eradicated overnight. Rather priority should go in the new-term to stopping the most egregious forms of exploitation of children in the workplace around the world. In our opinion, the widest possible international consensus can be mobilized around the proposition that children under 14 or 15 should not be allowed to work in industry. This approach would prevent younger children from being put to work in occupations where they would be in the greatest danger of traumatic injury or occupational disease.

Second, rather than placing the onus upon the U.S. Government to make certain that manufactured products imported into America were not made by exploited children, perhaps that responsibility should be placed primarily upon the importers themselves. Why not simply require that U.S. importers, as a condition for bringing a manufactured product into the American marketplace, certify in writing that such product was not made by children under the age of 14 or 15? Under this approach, eligibility to import would be treated as a privilege that it is and basic standards would need to be upheld if an importer wants to retain the privilege. In the course of doing business, it is not unreasonable to expect either foreign producers or importers not to undermine the international trading system by trafficking in manufactured products made by exploited children.

Third, stiff civil and criminal penalties should be imposed upon importers who knowingly violate the prohibition against bringing into the U.S. market manufactured products made by exploited children. Those tempted to violate the import ban would be running the risk that investigators from inside or outside the U.S. Government at any time will uncover evidence that could be brought to bear in administrative review proceedings and/or a court of law.

In conclusion, we recognize that to avoid chaos and global stability the international trading system must operate according to basic rules of fairness. The fact that current GATT rules assiduously protect property rights, while basically ignoring the rights of working people (including children) is a tragic commentary on contemporary priorities. But you have the power to change this situation. Access to the American marketplace is powerful leverage that should be used positively to encourage foreign producers and importers to treat defenseless children with dignity, rather than contempt. We cannot accept the bizarre reasoning and skewed priorities whereby international rules and U.S. import laws now protect endangered animals and plants, but remain silent on imports made by children shamelessly exploited in the workplace.

Before the Subcommittee on Trade
Committee on Ways and Means
U. S. House of Representatives

STATEMENT IN SUPPORT OF H.R. 3112
THE CHILD LABOR EXPLOITATION PREVENTION ACT OF 1987
BY
JAY MAZUR, PRESIDENT
INTERNATIONAL LADIES' GARMENT WORKERS' UNION, AFL-CIO

AUGUST 19, 1988

This statement is submitted on behalf of the International Ladies' Garment Workers' Union, AFL-CIO. Our Union has approximately 200,000 members employed in the production of women's and children's apparel.

The continued widespread use of child labor around the globe is harmful to children and an offense to humanity. Every effort should be made to eliminate it. Child labor also undercuts the job opportunities and working conditions of adults in the foreign countries and through unfair competition helps undermine standards in the United States as well. Because of the key role of the United States as a market for goods made in countries where child labor is prevalent, H.R. 3112 could play a significant role in protecting the rights of children.

First, and foremost, exploitative child labor leads to serious injury to the physical and mental well-being of the youth of the world. This problem has been recognized in the United States for over 150 years. Over time, a network of state laws combined with the provisions of the federal Fair Labor Standards Act have acted on behalf of our children.

In general, children in our country do not enter the labor force until they are 16 years old, and are not permitted to work under hazardous conditions until they are 18. Our laws prevent children from working at night. Our laws are also geared to insure that children remain in school until they have completed a basic education and severely limit work during the school season.

Child labor has also been a matter of international concern for many years. The International Labor Organization (ILO), founded in 1919, and to which our government belongs, speaks in the preamble to its founding constitution of the "protection of children and young persons". The very first International Labor Conference in 1919 adopted a Convention fixing the minimum age for admission of children to industrial employment at 14 years. Subsequent ILO conferences adopted additional Conventions and Recommendations which broadened the scope of economic activity covered by the ILO policies as well as raised the age for entry into the general labor market.

The most recent ILO Child Labor Convention -- No. 138, Minimum Age for Admission to Employment -- was adopted in 1973. It seeks "to raise progressively the minimum age for admission to employment to a level consistent with the fullest physical and mental development of young persons." Its specific standards are a minimum age for admission to employment of not less than the age for completion of compulsory schooling but in any event not less than 15 (with an exception at age 14 for undeveloped areas) and a minimum age of 18 for hazardous work with specified exceptions to age 16.

A companion ILO 1973 enactment, Recommendation No. 146, went even further. It proposed that the member states "take as their objective the progressive raising to 16 years of the minimum age for admission to employment." Recommendation No. 146 also calls for a wide range of other child labor protective measures including: equal pay for equal work, limitation of working hours to allow time for education and leisure activities and such other health and social security benefits as are enjoyed by adult workers.

Exploitative child labor severely affects the person of the child. There are ample studies by the ILO and other bodies of the impact of premature work on the physical and mental development of the child. I need not cite these studies here. They are surely well known to the Subcommittee. But child labor has other impacts as well.

While many industrialized nations have accepted either the language or the practice of the ILO policy decisions, most developing nations have not. Some countries have adopted minimum age legislation, but have set the age for labor force entry so low -- 12 years in some cases -- as to make it almost meaningless. Other countries lack even this minimal legislation. Where legislation exists it is rarely enforced.

The use of child labor abroad is endemic in such low-skilled, labor-intensive industries as apparel. The practice has been documented in films, newspaper and magazine articles and on television. Anyone, like myself, who has visited these countries and gone into apparel factories knows the sad truth. Children, who should be studying for the future and developing sound bodies, are instead working long hours, day and night, in unhealthy surroundings. Some of the children have actually been placed into bondage, others are working under such onerous terms -- for example incurring debt for training or room and board -- that they cannot afford to leave their employer.

The existence of exploitative child labor in these countries is doubly destructive. The well-being of the child is severely endangered and low paid children are used to undermine the standards and working conditions of local adult workers. The only gainers in this terrible situation are the greedy employers and their agents who pocket the ill-gotten gain from this inhumane activity.

There is one other group, unfortunately, that plays a role in this cruel activity. I refer, sadly, to the role of American importers and retailers who help create a willing market for the products made by exploited children. It is high time that Americans recognize the source of the goods they buy and the conditions under which they were made.

There is no way to specifically measure how much of the clothing imported into the United States was made by children. But surely it would be an impressive number if it were available. Child labor has helped to contribute to the inundation of the domestic apparel market with imports from the low wage nations of the globe. Last year, more than half of the clothing purchased in the United States was imported. In the last 15 years alone, over 300,000 U.S. apparel jobs have been lost to imports.

The provisions of H.R. 3112 calling upon the U.S. Secretary of State to assess the child labor practices of our trading partners is one step towards bringing these sad facts to public attention. The provisions of the bill that would prevent entry of such goods to the United States, once they are reported by the Department of State would go a long way towards helping the children of the third-world. Countries will have to adopt decent, humane child labor legislation if they want future access to our markets.

Section 5 (1) of the bill requires as a condition for entry of goods into the U.S. that the exporting nation "establish and enforce a minimum age for the employment of children". However, as noted earlier, some countries have such legislation but have set the minimum age at very low levels. I would respectfully urge that the qualifying foreign legislation contain a minimum working age in line with the ILO recommendations, i.e., 16 years of age. At the very least, such a minimum age should apply to manufacturing.

If the United States takes forthright action, such as contemplated by H.R. 3112, a great step forward can be taken on behalf of the children of the world and their parents. Hopefully, other nations will follow our lead as well.

INTERNATIONAL TRADE COUNCIL
1900 Mt. Vernon Avenue, Alexandria, VA 22301-1302, USA
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Written Comments on HR 3112
(A Bill Regarding Imports from Countries which use "Child Labor")

Honorable Sam M. Gibbons
Chairman
Subcommittee on Trade
House, Ways and Means Committee
U.S. House of Representatives
Washington, D. C.20515

Dear Mr. Chairman:

The International Trade Council (ITC) is opposed to H.R. 3112, ironically called the Child Labor Exploration Prevention Act of 1987, as written, for the following reasons:

1. There is no definition of what "internationally recognized child labor rights" are being quoted.

2. Of the 88 to 200 million children quoted in the Findings, paragraph (1), it is not defined how many are heads of households on whom any number of relatives depend for their daily bread and without whose salary they would literally starve.

3. Child workers work along with adults in "extremely hazardous conditions" at going rates for as many hours as they have to at whatever work is available in order to live in most countries.

4. Workers under the age of 18, along with adults work partly to improve their quality of life. As developing nations improve their economies, eventually more children will be able to stay in school and enter the work force later, but that is a slow evolutionary process.

5. Neither the bill nor general literature and research on the subject does categorically prove that laborers under the age of 18 are generally physically, mentally or morally harmed" by working. There is more mental and moral harm done to a young person who sees his/her family starve if he is denied the opportunity to work and earn a living.

6. The Bill (paragraph 5) refers to unnamed "international child labor standards" including minimum age for admission to employment. In the U.S.A. a child of 15 can get a work permit from his guidance counsellor at school. U.S. farm children help out from age 10 upward and school dropouts can either try to obtain work or "hang out" and do nothing which is more mentally and morally harmful than working.

This bill is obviously promoted by labor unions who try in everyway to curtail imports. Most third world countries refer to have no unemployment insurance and no welfare programs and if people do not work they starve.

In many countries the life expectancy is only 40-45. People get married at 12-13, start having children and try to survive in a hostile environment.

To demand that they may not work until they are 18 years old is unrealistic and an unreasonable attempt to impose our culture and laws more restrictive than our own upon other soverign countries.

It will take some courage for Members of Congress to vote against a bill with such an apparently well meaning title, but the right answer is a negative vote for H.R. 3112.

We will be glad to testify on this subject or to submit background research information on the aforementioned, if the Committee so desires.

Respectfully,

Peter Nelsen

Peter T. Nelsen
President

The Oriental Rug Importers Association, Inc.
267 FIFTH AVENUE, SUITE 302 NEW YORK, N. Y. 10016 (212) 685-1761

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August 16, 1988

Mr. Robert J. Leonard, Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
Room 1102 Longworth House Office Building
Washington, DC 20515

RE: WRITTEN TESTIMONY ON HR3112;
REQUEST TO APPEAR AS WITNESS

Dear Mr. Leonard:

The following written testimony for the record is being submitted on H.R.3112, (Mr. Miller of California): "To prohibit the importation into the United States of items made by child labor which is in violation of internationally recognized child labor rights." The submission is made on behalf of The Oriental Rug Importers Association, Inc. (ORIA), by myself, the undersigned, George G. Bashian, Jr., currently serving as President of the Association. The ORIA is a national non-profit trade association of oriental rug importers and wholesalers. We have approximately 70 members who import hand-made oriental rugs from the Middle East and Far East, namely the countries of India, Pakistan, China, Iran, Turkey, Afghanistan, and Nepal.

In addition to the submission of written testimony, I further request that I be permitted to appear as a witness before any public hearing the Subcommittee may hold, in order to give oral testimony in my capacity as President of the ORIA.

The ORIA does not disagree with the stated purpose of H.R.3112, namely to protect children in foreign countries from exploitative labor practices, and to encourage the elimination of such practices.[1] Nor do we deny that the carpets produced in the countries listed above are in many instances the result in part of child labor.

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[1] In passing, though, we note the peculiarity and indeed ambiguity of the United States' position: While the rationale of H.R.3112 relies heavily on International Labor Organization statistics, the U.S. has never ratified the ILO's Convention #138, the principal policy statement condemning exploitative child labor practices. Moreover, we note that many of the types of abuses condemned by H.R.3112 are present in our own society: Are we trying to impose standards on other, less economically developed countries that we are not able to enforce in our own country? Lastly, why try to "legislate in a vacuum"? Rather than condemning other countries, as H.R.3112 would do, (seemingly on the basis of a few sensationalistic news articles),

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The International Labor Organization defines "child labor" as "children under the age of 15 engaged in work or employment with the aim of earning a livelihood for themselves or their families". (By that definition, thousands of children in America are engaged in "child labor"). The ORIA's position, simply stated, is that carpets produced in the countries from which our members import, while the result in part of child labor, are *not* the product of *exploitative* child labor. When children help with the production of rugs, in homes and under the supervision of caring and close family relatives, then the training the child receives is often to his or her benefit, and the income derived therefrom is a legitimate and in many instances needed supplement to a family's income, which is primarily derived - in most instances - from agriculture.

Consider the following facts:

1. The weaving of carpets is generally done in the homes of villagers, whose primary occupation is agriculture; a typical "weaving belt" in a carpet producing country can extend for hundreds of miles.

2. The "cottage industry" nature of carpet weaving means that infamous Third World factory horror stories, like Bhopal, simply do not exist.

3. The vast majority of carpet weavers are adults; the children who work on looms are normally the sons and daughters of the weavers themselves.

4. Carpet weaving is a true skilled craft, pursued by many adults for their entire life, even well into their seventies and eighties. It provides a lifetime of income. Children who learn this craft are not being "exploited" into doing undesirable work, but are learning a life-time craft.

5. Carpet weaving itself is neither dangerous nor exhausting; no machines or chemicals are used, but only woolen yarn and hand-held tools.

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[1] why aren't we engaging these countries in a dialogue, to find out what *they* are doing about possible exploitative child labor practices, consult with them about what *their* needs are in this area? In other words, why aren't we encouraging and offering to help, instead of punishing broadside, as H.R.3112 would do?

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6. There are indeed other dangerous and unhealthy aspects of carpet manufacture, specifically the initial step of dying yarns (which involves contact with chemicals and a strong heat source), and carpet washing, (which involves heavy physical work while in contact with chemically treated water). Children are not employed in either of these aspects of carpet weaving.

7. The hours of carpet weaving are generally limited by the time of available natural lignt source, and by other work requirements of an agricultural community. In other words, there are no "sweat shops" or "midnight shifts" in the carpet industry, either for children or adults.

8. The children who perform carpet weaving do not - for that reason - fail to attend local schools. Sufficient schools are a problem in many of the countries listed above, particularly in rural areas where most carpet weaving is done; but the children of carpet weavers do not fail to attend schools where available.

For these and other reasons, which can be adduced in oral testimony if it becomes necessary, the ORIA submits that carpet weaving is not an unhealthy, dangerous, or exploitative type of child labor. Again, relying on ILO guidelines, carpet weaving is not work that:

a) places too heavy a burden on the child;
b) endangers his safety, health, or welfare;
c) takes advantage of the child's defenselessness;
d) exploits him or her as a cheap substitute for adult labor;
e) impedes the child's education or training.

We respectfully submit that hand-made oriental rugs not be included in H.R.3112, or alternatively that a self-policing code of ethics be accepted that would insure that rugs imported into this country do not originate from any possible exploitative sources of child labor.

Respectfully submitted,

George G. Bashian, Jr.
President, Oriental Rug
Importers Association, Inc.

August 22, 1988
The Youth News Service Mid-Atlantic Bureau
11th & Washington Sts.
Wilmington, DE 19801

Robert J. Leonard, Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
Room 1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Leonard:

I would like to express my support for House of Representatives Bill 3112. There is no question in my mind the United States should and is morally obligated to take quick and effective action to stop the exploitation of child labor in foreign nations.

I have two comments to make on this bill, however.

First of all, I strongly feel the U.S. State Department should not be the only monitor of child labor exploitation, as the bill suggests. Though the bill says any organization can sue the State Department for not fulfilling its duties on the matter, I feel a specific organization should be designated by Congress to make sure the State Department is not overlooking child labor exploitation in nations vital vital to a presidential administration's foreign policy.

Secondly, I hope the focus of H.R. 3112 on child labor exploitation in foreign nation does not cause Congress to forget about the problem in the U.S.

I would also like to point out Youth News Service (YNS), the national news agency by and about teenagers, is writing a story examining child labor exploitation on both a domestic and foreign scale. This is being done because YNS recognizes child labor exploitation a very serious problem. I will be working on this story as the Mid-Atlantic Bureau Chief for YNS.

In closing, I would like to restate my strong support for H.R. 3112 and encourage the members of the U.S. Congress to share my view.

Sincerely,

Christopher Belles

Christopher Belles
Youth News Service Mid-Atlantic Bureau Chief